

Please return to:  
St. John, Core & Lemme, P.A.  
1601 Forum Place, Suite 701  
West Palm Beach, FL 33401  
Attention: Tyler Powell, Esq.  
**WILL CALL BOX #110**

CFN 20090341612  
CR BK 23473 PG 0162  
RECORDED 10/01/2009 12:21:49  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0162 - 196; (35pgs)

## **CERTIFICATE OF AMENDMENT AND RESTATEMENT OF THE COVENANTS AND RESTRICTIONS FOR BEAR ISLAND**

**I HEREBY CERTIFY** that the Amended and Restated Declaration of Covenants and Restrictions for Bear Island (the "Amendment and Restatement") dated as of July 6, 2009, attached as Exhibit "A" to this certificate was duly adopted as an Amendment and Restatement of the Declaration of Covenants and Restrictions for Bear Island (the "Original Declaration"), dated July 23, 1987, which is recorded in Official Records Book 5540, at Page 731, the Public Records of Palm Beach County, Florida, as amended by an Amendment to the Declaration, dated June 4, 1997 (the "First Amendment"), which is recorded in Official Records Book 9826, at Page 1060, Public Records of Palm Beach County, and as further amended by an Amendment to the Declaration, dated June 19, 1999 (the "Second Amendment"), recorded in Official Records Book 11189, at Page 1375, Public Records of Palm Beach County, Florida.

Section 2 of Article XIII of the Original Declaration stated:

"2. After the Amendment Date, this Declaration may be amended only by consent of fifty-one percent (51%) of all lot owners together with the consent of the institutional mortgagee with the highest aggregate mortgage indebtedness on the lots. The aforementioned consent shall be in writing and affixed to the Amendment to this Declaration."

Because of the turmoil in the residential lending industry the Board of Directors of Bear Island Homeowners Association, Inc. (the "Association") has found it impossible to locate with certainty "the institutional mortgagee with the highest aggregate mortgage indebtedness on the lots." Upon the advice of legal counsel, on July 6, 2009, letters containing copies of the proposed Amendment and Restatement and requesting their written consent as required by the Original Declaration were mailed to the following institutional mortgagees using the names and addresses on the latest mortgages recorded by each mortgagee and requesting their consent. The number of loans and the aggregate mortgagee indebtedness for each lender is also shown below:

Wachovia Bank, N. A.  
301 South College Street  
Charlotte, VA 28288  
(13 loans) \$1,931,897.00

Fidelity Federal Bank & Trust  
205 Datura Street  
West Palm Beach, FL 33401  
(10 loans) \$1,293,400.00

Washington Mutual Bank, F. A.  
400 East Main Street  
Stockton, CA 95290  
(11 loans) \$1,545,440.00

Bank of America, N. A.  
100 North Trynor Street  
Charlotte, VA 28255  
(7 loans) \$1,215,307.53

Suntrust Mortgage, Inc.  
901 Semmes Avenue  
Richmond, VA  
(9 loans) \$1,372,849.00

First Federal of the Palm Beaches  
215 South Olive Avenue  
West Palm Beach, FL 33401  
(13 loans) \$989,000.00

As of the date of this Certificate, no responses have been received by the Association, which has received an opinion from its legal counsel that there has been substantial compliance with the requirements of the Original Declaration and that the Amendment and Restatement is valid and enforceable.

DATED this 21<sup>st</sup> day of September, 2009.

WITNESSES:

Sign: [Signature]

Print: LELAND MATCZAK

Sign: [Signature]

Print: GEORGE P. ROBERTS, JR

Sign: [Signature]

Print: Howard Berman, President

Sign: [Signature]

Print: Stephen L. Seftenberg, Secretary

STATE OF FLORIDA                    )  
COUNTY OF PALM BEACH         )

BEFORE ME personally appeared HOWARD BERMAN, President, and STEPHEN L. SEFTENBERG, Secretary of Bear Island Homeowners Association, Inc., who are personally known to me or who have produced identification satisfactory to me and who did take an oath, to be the individuals who executed the foregoing instrument and acknowledged to and before me that they executed such instrument as President and Secretary of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS MY HAND AND OFFICIAL SEAL this 21<sup>st</sup> day of September, 2009.

NOTARY PUBLIC

Sign: Sarah Lauder Seftenberg  
Print: \_\_\_\_\_  
State of Florida at Large  
My Commission expires: \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA  
 Sarah Lauder Seftenberg  
Commission # DD555034  
My Comm. Expires: 07/06/2010

1 Please return to:  
2 St. John, Core & Lemme, PA  
3 1601 Forum Place, Suite 701  
4 West Palm Beach, FL 33401-8106  
5 Attention: Tyler Powell, Esq.  
6  
7  
8  
9

EXHIBIT "A"

10  
11 AMENDED AND RESTATED DECLARATION  
12 OF COVENANTS AND RESTRICTIONS FOR BEAR ISLAND  
13

14 THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND  
15 RESTRICTIONS is made as of the 6th day of July, 2009, by BEAR ISLAND HOMEOWNERS  
16 ASSOCIATION, INC., a Florida non-profit corporation (the "Association"), as transferee from  
17 BURG & DIVOSTA CORPORATION, a Florida corporation (the "Developer").  
18

19 WITNESSETH  
20

21 WHEREAS, the Developer and the Association executed that certain DECLARATION OF  
22 COVENANTS AND RESTRICTIONS FOR BEAR ISLAND (the "Original Declaration") dated  
23 July 23, 1987, recorded in Official Records Book 5540, at Page 731 of the Public Records of Palm  
24 Beach County, Florida; and  
25

26 WHEREAS, the Developer conveyed legal title to the Common Areas to the Association,  
27 thereby relinquishing the right to appoint a majority of the Directors to the Board of Directors of  
28 the Association by an instrument executed by the Developer dated March 1, 1989 and recorded in  
29 the Official Records Book 5993, at Page 1539 of the Public Records of Palm Beach County,  
30 Florida; and  
31

32 WHEREAS, the Association executed an Amendment (the "First Amendment") to the  
33 Original Declaration dated June 4, 1997, recorded in the Official Records Book 9826, at Page 1060,  
34 Public Records of Palm Beach County, Florida; and  
35

36 WHEREAS, the Association executed a Second Amendment to the Original Declaration  
37 dated June 19, 1999, recorded in the Official Records Book 11189, at Page 1375, Public Records  
38 of Palm Beach County, Florida; and  
39

40 WHEREAS, the Association desires to continue to provide for the preservation and  
41 enhancement of the property values, amenities, and opportunities in said community, and for the  
42 maintenance of the properties and improvements thereon, and to this end desires to continue to

1 subject the real property described in Exhibit "A" attached to the Original Declaration to the  
2 covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which  
3 is and are for the benefit of said property and each owner thereof; and  
4

5 WHEREAS, the Developer deemed it desirable, for the efficient preservation of the values  
6 and amenities in said community, to create an entity to which should be delegated and assigned the  
7 powers of owning, maintaining, and administering the community properties and facilities;  
8 administering and enforcing the covenants and restrictions; collecting and disbursing the  
9 assessments and charges hereinafter created; and promoting the convenience, safety, and welfare  
10 of the residents; and  
11

12 WHEREAS, on June 17, 1987, the Developer incorporated the Association under the laws  
13 of the State of Florida, as a non-profit corporation for the purposes of exercising the functions  
14 aforesaid; and  
15

16 WHEREAS, the Association wishes to further amend and restate the Original Declaration,  
17 as amended by the First and Second Amendments.  
18

19 NOW THEREFORE, the Association hereby declares that the real property described in  
20 Exhibit A is and shall continue to be held, transferred, sold, conveyed, leased and occupied subject  
21 to the terms, conditions, covenants, provisions, restrictions, easements, servitudes, and liens  
22 (sometimes referred to as "covenants and restrictions") hereinafter set forth, as amended from time  
23 to time, which covenants and restrictions shall be binding on all persons, their heirs, successors,  
24 and assigns having any right, title or interest in or to the real property, and shall inure to the benefit  
25 of each lot owner.  
26

27 ARTICLE I  
28 DEFINITIONS  
29

30 1. "ACC" means the Architectural Control Committee.  
31

32 2. "Articles" means the Articles of Incorporation of the Association.  
33

34 3. "Association" means and refers to Bear Island Homeowners Association, Inc., its  
35 successors and assigns.  
36

37 4. "Association Expenses" mean the expenses of the Association payable by the  
38 Owners to the Association as set forth in this Declaration.  
39

---

1           5.     “Association Property” means all real and personal property transferred to the  
2 Association for the benefit of all the Members.

3  
4           6.     “Back Yard” means and includes all portions of a Lot behind and including the  
5 vertical plane of the gated fence as originally sited between a single family home and an adjacent  
6 Lot Perimeter Wall or Fence, Party Wall or Privacy Wall, as the case may be.

7  
8           7.     “Bear Island” is the name given to a planned residential community of single family  
9 homes constructed by Developer in the City of West Palm Beach, Florida. The Plat of Bear Island  
10 dated July 13, 1987 is recorded in Plat Book 57 Pages 55-59, inclusive, of the Public Records of  
11 Palm Beach County, Florida.

12  
13          8.     “Board” means the Board of Directors of the Association.

14  
15          9.     “By Laws” mean the By Laws of the Association as amended from time to time.

16  
17          11.    “Common Areas” mean those areas of real property shown on the Plat of Bear  
18 Island as Common Areas, together with all improvements thereto, which are devoted to the  
19 common use and enjoyment of all the Members of the Association. The term “Common Area”  
20 may sometimes be used interchangeably with the term “Association Property”.

21  
22          12.    “Declaration” means the covenants, conditions, restrictions, easements, and all other  
23 terms set forth in this document, and as may be amended from time to time.

24  
25          13.    “Developer” means BURG & DIVOSTA CORPORATION, a Florida corporation,  
26 its successors and assigns.

27  
28          14.    “Front Yard” means and includes all portions of a lot in front of the vertical plane  
29 of the gated fence as originally sited between a single family home and an adjacent Lot Perimeter  
30 Wall or Fence, Party Wall or Privacy Wall, as the case may be.

31  
32          15.    “General Plan of Development” means the Plat of Bear Island, as approved by the  
33 appropriate governmental agencies, which represents the development plan and uses of the real  
34 property.

35  
36          16.    “Governing Documents” mean in the aggregate this Declaration, the Articles, the  
37 By-Laws, the Rules and Regulations of the Association, resolutions of general application adopted  
38 from time to time by the Board, and all of the instruments and documents referred to herein and  
39 executed in connection with the General Plan of Development, including without limitation, the  
40 Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, and the Articles of

---

1 Incorporation and By-Laws of the Villages of Palm Beach Lakes Property Owners Association, Inc,  
2 all as amended from time to time.

3  
4 17. "Institutional Mortgagee" means any lending institution having a first lien on a  
5 "Lot" (hereinafter defined), including any of the following institutions: an insurance company or  
6 subsidiary thereof, a federal or state savings and loan association, a federal or state building and  
7 loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage  
8 Corporation, a federal or state banking association, the Palm Beach County Housing Authority or  
9 similar entity, a real estate investment trust, or any mortgage banking company authorized to do  
10 business in the State of Florida.

11  
12 18. "Lot" means a parcel of real property (as described on the Plat of Bear Island) on  
13 which a zero lot line, single family home (also referred to as "Home") is located. Ownership of a  
14 Lot includes a membership interest in the Association and in the Villages POA.

15  
16 19. "Lot Perimeter Wall or Lot Perimeter Fence means (a) with respect to a Lot adjacent  
17 to a Common Area of Bear Island, means (1) the exterior side of the single family home on a Lot  
18 which is located approximately two (2) feet in from the lot line and (2) the wall or fence, which  
19 may or may not be connected to the side of the home, which is constructed on the lot side of the  
20 lot line dividing such lot and a Common Area of Bear Island; and (b) with respect to a lot adjacent  
21 to a Bear Lakes Country Club golf course, the fence constructed more or less on the lot line  
22 dividing the Lot and the Golf Course.

23  
24 20. "Occupant" means a person legally occupying a single family home in Bear Island,  
25 whether as Owner, lessee, or guest of the Owner or lessee of the Lot.

26  
27 21. "Owner" means the fee simple title holder of a Lot, whether one or more persons  
28 or entities.

29  
30 22. "Party Wall or Party Fence" means a wall or fence constructed between adjoining  
31 Lots with the center of the wall or fence more or less along the lot line dividing the Lots.

32  
33 23. "Privacy Wall" means a wall constructed between two adjoining Lots connected to  
34 a single family home and extending to a Party Wall or Lot Perimeter Wall or Fence, lying entirely  
35 within the property of an Owner and located approximately two (2) feet inside the Owner's Lot  
36 line.

37  
38 24. "Property" means all of the real and personal property subject to this Declaration,  
39 as amended from time to time. The real property is described in Exhibit A, attached hereto and  
40 made a part hereof.

25. "Property Manager" means one or more independent contractors or employees of the Association providing bookkeeping and other management services for the Association.

26. "Rules and Regulations" mean the rules, regulations, and policies as may be adopted by the Board from time to time by resolution duly made and carried.

27. "Single family" means (a) one person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or (b) not more than two persons living together who are not so interrelated.

28. "Transfer Date" means March 1, 1989, the date the Developer relinquished the right to appoint a majority of the Directors to the Board of Directors of the Association and conveyed legal title to the Common Areas to the Association by means of a Quit Claim Deed dated March 1, 1989 and recorded in Official Records Book 5993, Page 1539 of the Public Records of Palm Beach County, Florida.

29. "Villages of Palm Beach Lakes" means the property platted as the Villages of Palm Beach Lakes, Plat No. 1, recorded in Plat Book 41, Pages 1-19, Public Records of Palm Beach County, Florida.

30. “Villages of Palm Beach Lakes Property Owners Association, Inc., means that certain entity created to manage, maintain, and control the Common Areas of the Villages of Palm Beach Lakes. It may also be referred to as the “Villages POA.”

ARTICLE II  
GENERAL PLAN OF DEVELOPMENT

1. Developer built two hundred twenty seven (227) single family homes on Lots 1 to 227, Bear Island, inclusive.

2. Those portions of the Common Areas (1) shown as roadways and bridges on the Plat of Bear Island and (2) constructed as sidewalks and driveway aprons between driveways and roads shall be kept and maintained by the Association as private roadways, bridges, sidewalks and driveway aprons for ingress to and egress from the Lots, other areas of Bear Island, and the publicly and privately dedicated roads of the Villages of Palm Beach Lakes.

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1       6.     No animals of any kind shall be raised, bred, or kept in any portion of Bear Island,  
2       except as follows:  
3

4           A.     Dogs, cats or other usual and common household pets (not to exceed the  
5       number set in the Rules and Regulations) may be permitted on a Lot, provided that no  
6       animals shall be raised, bred, or kept for any commercial purpose. A pet, whenever outside  
7       its Owner's home or Back Yard, shall at all times be confined on a leash held by a  
8       responsible person. Each person bringing a pet onto any Lot or Common Area shall be  
9       required to clean up after the pet in order to properly maintain the Lot and the Common  
10      Areas.  
11

12          B.     Each Owner, by acquiring a Lot at Bear Island, agrees to indemnify the  
13      Association and the Villages POA and hold each of them harmless against any loss or  
14      liability resulting from bringing, breeding, keeping or maintaining an animal on any portion  
15      of Bear Island.  
16

17          C.     No animal kept on a Lot shall be allowed to roam free, display a mean or  
18      violent temperament, endanger the health of persons or other animals, make objectionable  
19      noise, or constitute a nuisance or inconvenience to Occupants of other Lots in Bear Island.  
20      If the Owner of the Lot involved fails to cure a violation described above (whether or not  
21      such Owner is personally responsible for such violation) within ten (10) days after receiving  
22      written notice from the Board of such violation, the Board shall have the right to authorize  
23      the removal of such animal, and the costs and fees, including attorneys' fees and expenses,  
24      if any, shall be added to and become a part of the assessment to which the Lot is subject and  
25      shall be collectable as an assessment pursuant to Article XI of the Declaration.  
26

27       7.     All window coverings, including without being limited to: draperies, curtains,  
28      shades, shutters and blinds installed in a home, which are visible from the exterior of a home shall  
29      have a white backing unless otherwise approved in writing by the ACC. No sign, symbol, name,  
30      address, notice, or advertisement shall be inscribed or exposed on or at any window or other part  
31      of a home, Lot or Common Areas without the prior written approval of the ACC, provided that the  
32      display of the American and Florida flag and any other flag covered by federal or state law shall  
33      not be abridged and signs permitted or required by law shall not be prohibited.  
34

35       8.     The Board is authorized to promulgate Rules and Regulations (a) restricting the  
36      kinds of vehicles permitted to park overnight within the confines of Bear Island outside of an  
37      Owner's garage, including, without being limited to: commercial vehicles, vehicles with  
38      commercial writing on their exteriors, vehicles primarily used or designed for commercial  
39      purposes, motorcycles, pick-up trucks, tractors, mobile homes, recreational vehicles, trailers (either  
40      with or without wheels), campers, camper trailers, boats and other water craft, boat trailers, stored

1 vehicles and vehicles which are either obviously inoperable or do not have current operating  
2 licenses; (b) regulating hours for deliveries, pickups and services by commercial vehicles, and (c)  
3 regulating the use of containers (including without being limited to PODs). If the Owner of the Lot  
4 involved fails to cure a violation of the Rules and Regulations referred to in this Section 8 (whether  
5 or not such Owner is personally responsible for such violation) within ten (10) days after receiving  
6 written notice of such violation from the Board, the Board shall have the right to direct the removal  
7 of the offending vehicle from the Common Areas, and the resulting costs and fees, including  
8 attorneys' fees and costs, if any, shall be added to and become a part of the assessment to which  
9 the lot is subject and shall be collectable as an assessment pursuant to Article XI of the Declaration.

10

11         9.       The Association shall provide reasonable and sufficient irrigation water service to  
12 the Common Areas and to each Lot as a Common Area expense, unless water service is separately  
13 metered for each Lot, in which case irrigation water service to the Owner's Lot shall be the  
14 Owner's expense. The Association shall maintain, repair and replace the sprinkler system serving  
15 the Front Yard of each lot as a Common Area expense. The Owner of a Lot shall maintain, repair  
16 and replace the sprinkler system serving the Back Yard of such Owner's Lot at such Owner's  
17 expense. No wells shall be drilled on any lot for irrigation or other purposes.

18

19         10.       Each Owner shall cause all weeds, rubbish, debris, or unsightly materials or objects  
20 of any kind ("trash") to be regularly removed from the Owner's Lot at the Owner's expense and  
21 shall not allow trash originating on the Lot to accumulate on the Lot or the Common Areas. All  
22 refuse containers (except on scheduled trash pick-up days and after sundown on the day before),  
23 all machinery and equipment and other similar items of personal property shall be obscured from  
24 view of adjoining streets, roads, Lots and Common Areas. If the Owner of the Lot involved leaves  
25 trash in the Front Yard or driveway of a Lot (whether his or another Owner's Lot) or in a Common  
26 Area (including the street, sidewalk and driveway apron) in violation of the provisions of this  
27 Section (whether or not such Owner was personally responsible for leaving such trash there) and  
28 fails to have such trash removed within a reasonable period (not less than twenty-four (24) hours)  
29 after receiving written notice of such violation from the Board, the Board shall have the right to  
30 authorize the removal of such trash, and the resulting costs and fees, including attorneys' fees and  
31 expenses, if any, shall be added to and become a part of the assessment to which the lot is subject  
32 and shall be collectable as an assessment pursuant to Article XI of the Declaration.

33

34         11.       Each Owner who intends to leave such Owner's home unoccupied for over seven  
35 (7) days during the hurricane season (defined as June 1 through November 30) or for over thirty  
36 (30) days during any other period shall prepare such Owner's home prior thereto by doing the  
37 following:

38

39                 A.       Removing all furniture, potted plants and other moveable objects from such  
40 Owner's Front and Back Yard; and

---

1           B.     Designating the name, address and contact information of a responsible  
2 person or firm (the "Caretaker") in writing to the Property Manager to care for, maintain  
3 and repair such Owner's home and Lot while unoccupied. With the prior permission of the  
4 ACC, the Owner or the Caretaker may in the event of a hurricane warning may (i) install  
5 temporary hurricane shutters which must be removed when no longer necessary for storm  
6 protection, or (ii) close permanent hurricane shutters, which must be reopened when no  
7 longer necessary for storm protection. At no time shall hurricane shutters be permanently  
8 installed, without the prior written consent of the ACC.  
9

10       12.     Each Owner, tenant, invitee and guest of an Owner shall abide by the provisions of  
11 the Governing Documents. Upon request and payment of the cost of providing such copies, an  
12 Owner or tenant may obtain from the Association Property Manager a current copy of the  
13 Governing Documents, including the Rules and Regulations of the Association, and a list of  
14 "Frequently Asked Questions and Answers," if such list is required under state law. If an Owner  
15 fails to cure a violation of the Governing Documents within ten (10) days (or such shorter or longer  
16 period specified elsewhere herein) after receiving written notice of such violation from the Board,  
17 whether or not such Owner was personally responsible for such violation, the Board shall have the  
18 right to authorize such action (subject to any limitations on such powers as may be stated elsewhere  
19 in the Declaration) as in its sole discretion shall be necessary to cure such violation, and the  
20 resulting costs and fees, including attorneys' fees and expenses, if any, shall be added to and  
21 become a part of the assessment to which the lot is subject and shall be collectable as an assessment  
22 pursuant to Article XI of the Declaration.  
23

24       13.     Should the Association be required to seek enforcement against an Owner of any  
25 provision of the Governing Documents or any resolution of the Board, such Owner (whether or not  
26 such Owner was personally responsible for such violation) shall be liable to the Association for all  
27 costs incurred in the enforcement action, including reasonable attorneys' fees, whether incurred in  
28 trial or appellate proceedings or otherwise.  
29

30       14.     In addition to all other remedies and to the maximum extent lawful, in the sole  
31 discretion of the Board, a fine or fines may be imposed upon an Owner for failure of an Owner, his  
32 family, guests, invitees or employees, to comply with the Governing Documents (including Board  
33 resolutions), provided the following procedures are substantially adhered to:  
34

35           A.     Notice. The Board shall notify the Owner in writing of the alleged infraction  
36 or infractions. Included in the notice shall be the date and time of a hearing before the  
37 Fines Committee at which the Owner shall present reasons why a fine or fines should not  
38 be imposed. Advance notice of such hearing required by law (currently fourteen (14) days  
39 is required by Section 720.305, Florida Statutes) shall be given.  
40

1           B.     Hearing. The Owner shall have a right to be represented by counsel and to  
2 cross-examine witnesses at the hearing. After hearing such statements by witnesses under  
3 oath as the Owner and the Fines Committee may deem necessary(subject to reasonable  
4 limitations on the number of witnesses and the length of the hearing), the Fines Committee,  
5 shall submit to the Board at a regular meeting of the Board a written report recommend  
6 whether a fine or fines should be imposed and, if a fine or fines is recommended, the  
7 amount thereof. If the Fine Committee, by majority vote, does not approve a proposed fine,  
8 it may not be imposed.

9  
10           C.     Board Review. After reviewing such report, the Board may by resolution  
11 accept or reject the recommendation(s) of the Fines Committee, or may return the report  
12 to the Fines Committee for further hearing(s) as specified in such resolution.

13  
14           D.     Amounts. The Board may levy such fines as may be permitted by law  
15 (currently not more than One Hundred Dollars (\$100.00) per violation and not more than  
16 Five Thousand Dollars (\$5,000.00) in the aggregate. Fines may be levied on the basis of  
17 each day of a continuing violation, with a single notice and opportunity for hearing.

18  
19           E.     Payment, Collection. A fine shall be paid not later than fifteen (15) days  
20 after notice of its imposition or assessment. In an action to recover a fine, the prevailing  
21 party is entitled to collect its reasonable attorneys' fees and costs from the nonprevailing  
22 party as determined by the court.

23  
24           F.     The provision for levying fines shall not be construed to be exclusive, and  
25 shall exist in addition to all other rights and remedies to which the Association may be  
26 otherwise legally entitled, provided that any amounts paid pursuant to this Section shall be  
27 deducted from or offset against any damages which the Association may otherwise be  
28 entitled to recover by law from the Owner.

29  
30           G.     The Fines Committee shall consist of at least three members who shall serve  
31 at the pleasure of the Board. A member must be an Owner, but may not be an officer,  
32 director, or employee of the Association, or a member of the ACC, or the spouse, parent,  
33 child, brother or sister of an officer, director, or employee of the Association or a member  
34 of the ACC.

35  
36                               ARTICLE V  
37                               EASEMENTS

38  
39           1.     In the Original Declaration, the Developer granted:  
40

---

1           A.     A perpetual non-exclusive easement to the Association and to the Owners,  
2     their families, guests, invitees and tenants upon, over, and across the Common Areas;  
3

4           B.     An additional perpetual non-exclusive easement to the Association over,  
5     across, through, and under all Lots for the purpose of performing the maintenance, repair  
6     and replacement requirements of the Association as described in this Declaration (including  
7     performing maintenance, repair, replacement or removal of an Owner's property when such  
8     is authorized by the Governing Documents to correct violations of the Governing  
9     Documents). The Association and its assigns or representatives shall enter upon an Owner's  
10    Lot only after reasonable notice has been given to the Owner;  
11

12          C.     A perpetual non-exclusive easement to all utility or service companies  
13     servicing Bear Island upon, over, across, through, and under the Lots (other than under the  
14     houses) and Common Areas for ingress, egress, installation, replacement, repair and  
15     maintenance of all utility and service lines and systems including, but not limited to water,  
16     irrigation, sewer, gas, telephone, electricity, television cable or communication lines and  
17     systems. It shall be expressly permissible for the providing utility or service company to  
18     install, maintain, repair and replace facilities and equipment on said property, to excavate  
19     for such purposes and to affix and maintain satellite dishes, wires, circuits and conduits and  
20     solar panels on, in and under the roofs and exterior walls of the homes, providing such  
21     company restores any disturbed area or damage to any Owner's property substantially to  
22     the condition existing prior to their activity; provided, however, that no utility service line  
23     or system may be installed or relocated within the Common Areas without the consent of  
24     the Board. Unless the prior approval of the Board is granted, the easements over, across,  
25     through and under the lots shall be limited to improvements as originally constructed;  
26

27          D.     A two (2) foot easement over an adjacent Lot parallel to the entire Lot line,  
28     to the Owner of a Lot on which a Privacy Wall has been erected (or, as provided elsewhere  
29     in this Declaration, the Association) for the sole purpose of maintaining the exterior of such  
30     Owner's Privacy Wall and home. The easement area shall be used exclusively by the  
31     Owner of the Privacy Wall or by the Association, and their agents, their successors or  
32     assigns. Without the written, recordable permission of the Owner of the Privacy Wall, the  
33     easement area shall not be used in any manner by the Owner of the Lot holding fee simple  
34     title to the easement area; and  
35

36          E.     An easement for encroachment in the event any improvements upon the  
37     Common Areas now or hereafter encroaches upon a Lot, or any improvements upon any  
38     Lot now or hereafter encroaches upon the Common Area, as a result of minor inaccuracies  
39     in survey, construction, reconstruction, or due to settlement or movement or otherwise. The  
40     encroaching improvements shall remain undisturbed as long as the encroachment exists.

---

1 This easement for encroachment shall also include an easement for the maintenance, repair  
2 and use of the encroaching improvements, provided however, that at no time shall there be  
3 any encroachment onto the surface water management systems, without the written consent  
4 of the Northern Palm Beach County Water Control District.  
5

6 2. In the Original Declaration, the Developer reserved for the benefit of the  
7 Association an easement on, over, across, under and through each Lot for the purpose of  
8 maintaining, repairing and replacing lawns, landscaping and sprinkler systems in the Front Yard  
9 of such Lot.  
10

11 3. The Association hereby grants a two (2) foot easement over the Common Areas  
12 adjoining a Lot Perimeter Wall or Fence to the Owner of such Lot Perimeter Wall or Fence for the  
13 sole purpose of maintaining such Lot Perimeter Wall or Fence. The easement area shall be used  
14 exclusively by the Owner of the Lot Perimeter Wall or Fence or by the Association, and their  
15 agents, successors or assigns.  
16

17 ARTICLE VI  
18 MAINTENANCE OF EXTERIOR OF THE SINGLE FAMILY HOME  
19

20 1. Each Owner at such Owner's own expense shall maintain in good condition, repair,  
21 replace, clean and paint as required the exterior of such Owner's single family home, including the  
22 roof, fascia, soffit, driveway, paved walks and the fence, if any, between such Owner's Front Yard  
23 and Back Yard, within such Owner's Lot.  
24

25 2. Each Owner at the Owner's expense shall maintain in good order and repair and  
26 replace when necessary at the Owner's expense the Owner's lawn, landscaping, and the sprinkler  
27 system located in the Back Yard of the Owner's Lot. The Association as a common expense shall  
28 maintain the lawn, landscaping, and the sprinkler system located in the Front Yard of each Lot.  
29

30 3. Each Owner at such Owner's expense shall clean, paint, maintain, repair and replace  
31 both sides of the Privacy Wall on such Owner's Lot. An Owner shall have the right to full use of  
32 the Privacy Wall on such Owner's Lot, subject to the limitation that such use shall not infringe on  
33 the rights of the Owner of an adjacent Lot or in any manner impair the value of such Privacy Wall.  
34

35 4. Each Owner at such Owner's expense shall clean, paint, and make superficial  
36 repairs (e. g., filling in a nonstructural crack, painting, etc.) to both sides of a Lot Perimeter Wall  
37 or Fence on such Owner's Lot facing a Common Area or the Bear Lakes Country Club golf course.  
38 An Owner shall have the right to full use of the Lot Perimeter Wall or Fence on such Owner's  
39 Lot, subject to the limitation that such use shall not infringe on the rights of the Association or in  
40 any manner impair the value of a Lot Perimeter Wall or Fence.

---

1           5.       If the Owner fails to perform the Owner's obligations set forth in Sections 1-4 of  
2 this Article within a reasonable period after receiving written notice from the Board thereof, the  
3 Association shall have the right to cause the necessary maintenance, repair, replacement, cleaning  
4 and painting to be performed. The cost thereof, including attorney's fees and costs, if any, to the  
5 Association shall be added to and become a part of the assessment to which the lot is subject and  
6 shall be collectable as an assessment pursuant to Article XI of the Declaration.

7  
8           6.       Structural repairs to the side of a Lot Perimeter Wall or Fence facing a Common  
9 Area or a Bear Lakes Country Club golf course not caused by the negligence or wilful misconduct  
10 of the Owner of the Lot on which such Lot Perimeter Wall Fence is constructed shall be performed  
11 solely by the Association or its agents and at its expense. If the Board determines that damage to  
12 the side of a Lot Perimeter Wall or Fence facing a Common Area or the Bear Lakes Country Club  
13 golf course or destruction of such Lot Perimeter Wall or Fence has been caused by the negligence  
14 or wilful misconduct of the Owner of the Lot on which the Lot Perimeter Wall or Fence is  
15 constructed, such Owner shall repair or reconstruct the Lot Perimeter Wall or Fence, at such  
16 Owner's expense, in a timely manner and in accordance with the standards established by the  
17 Board. If such repair or reconstruction is not completed in satisfactory manner by such Owner  
18 within thirty (30) days after such Owner has received notice of such obligation, unless extended  
19 by the Board, the Association or its agents shall have the right at reasonable times to enter such  
20 adjacent Lot to effect such repair or reconstruction, and the cost thereof as well as all costs incurred  
21 in the enforcement action, including reasonable attorneys' fees, whether incurred in trial or  
22 appellate proceedings or otherwise, shall be added to and become a part of the assessment to which  
23 the Lot is subject and shall be collectable as an assessment pursuant to Article XI of the  
24 Declaration.

25  
26           7.       Maintenance, repair and replacement of a Party Wall shall be the joint obligation  
27 of the Owner or Owners of the Lot or Lots on either side of the Party Wall. An Owner shall have  
28 the right to full use of the Party Wall facing such Owner's Lot, subject to the limitation that such  
29 use shall not infringe on the rights of the Owner or Owners of the Lot or Lots on the other side of  
30 the Party Wall or in any manner impair the value of said Party Wall. In the event of damage or  
31 destruction of the Party Wall from any cause whatsoever, other than negligence or wilful  
32 misconduct of one or more of Owners of adjacent Lots, the Owners shall, at their joint expense,  
33 repair and rebuild the Party Wall within a reasonable period set by the Board, unless extended by  
34 the Board for good cause. The Owners shall agree on the cost and division of such repairs or  
35 reconstruction, and shall agree on the licensed contractor or contractors who shall perform such  
36 repairs or reconstruction. If by the end of thirty (30) days after damage or destruction, the Owners  
37 cannot agree on the cost or division of such repairs or on the qualified contractor or contractors  
38 who shall perform such repairs, the Board of Directors shall thereafter choose the qualified  
39 contractor or contractors who shall perform the repairs and shall assess the costs of such repairs

1 to the Owners in such proportions as the Board of Directors in its sole discretion may determine  
2 to be reasonable.

3  
4 8. Each Owner at such Owner's expense shall clean, paint, and make superficial  
5 repairs (e. g., filling in a nonstructural crack, painting, etc.) to that portion of a Party Wall facing  
6 such Owner's Lot.

7  
8 9. In no event, shall any person make any structural changes in any Lot Perimeter Wall  
9 or Fence, Party Wall, or Privacy Wall, including, but not limited to, change of paint color, without  
10 the prior express written approval of the ACC.

11  
12 10. Whenever any wall or fence or any part thereof shall be rebuilt, it shall be erected  
13 constructed in the same manner and be of the same size and of the same or similar materials and  
14 of like quality and at the same location where it was initially constructed. If the Board of Directors  
15 determines that such maintenance, repair or construction results from the neglect, wilful  
16 misconduct of one or more Owners, such Owner or Owners shall be liable for the cost of  
17 maintaining, repairing or reconstructing such wall, as well as all costs incurred in an enforcement  
18 action, including reasonable attorneys' fees, whether incurred in trial or appellate proceedings or  
19 otherwise, all of which shall be added to and become a part of the assessment to which the lot is  
20 subject and shall be collectable as an assessment pursuant to Article XI of the Declaration. If  
21 maintenance, repairs or reconstruction shall be necessary, all necessary entries on an adjacent Lot  
22 (whether or not within an easement granted elsewhere to the Association or an Owner) shall not  
23 be deemed a trespass. Any such maintenance, repairs and reconstruction shall be done in a  
24 workmanlike manner. Any resulting damages to any Lot shall be borne by the party or parties  
25 responsible for the cost of repair or reconstruction of such wall.

26  
27 11. If an Owner fails to maintain the premises and the improvements on such Owner's  
28 Lot as required herein, the Association and its agents, after notice to the Owner to correct such  
29 violation within thirty (30) days, shall have the right to enter such Lot to correct drainage and to  
30 repair, maintain and restore the exterior of the structures and any other improvements erected  
31 thereon. The Owner of such Lot shall be liable for all costs related to such correction, repair,  
32 maintenance or restoration, as well as all costs incurred in the enforcement action, including  
33 reasonable attorneys' fees, whether incurred in trial or appellate proceedings or otherwise, all of  
34 which, with interest, shall be added to and become a part of the assessment to which the Lot is  
35 subject and shall be collectable as an assessment pursuant to Article XI of the Declaration.

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38 SPACE INTENTIONALLY LEFT BLANK  
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1. The ACC shall consist of five (5) or more persons appointed by and serving at the pleasure of the Board of Directors. The ACC shall consist of Owners or members of an Owner's family. No Director shall serve as a voting member of the ACC.

### 3. General Provisions.

B. The ACC shall establish time limitations for the completion of any work for which its approval is required pursuant to the Governing Documents.

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1           D.     Each application must be filed in duplicate and must contain plans and  
2 specifications, including drawings where appropriate, showing the nature, kind, shape,  
3 color, size, materials and location of the proposed Construction sufficient for the ACC to  
4 be able to evaluate whether the application complies with the standards promulgated by the  
5 ACC. One (1) copy of the Application and all required attachments shall be to retained by  
6 the ACC for its records.  
7

8           4.     If the ACC fails to approve, modify or disapprove in writing an application within  
9 forty five (45)days after plans and specifications in writing have been submitted to it in accordance  
10 with adopted procedures, approval will be deemed granted.  
11

12           5.     If the ACC disapproves an application in whole or in part, the applicant may appeal  
13 in writing to the Board. The written appeal must be received by the Board not more than forty five  
14 (45) days following the final decision of the ACC. The Board shall have forty-five (45) days  
15 following receipt of an appeal to render its written decision. The Board may approve, reverse or  
16 modify the ACC decision. The failure of the Board to render a decision within the forty-five (45)  
17 day period shall be deemed a decision in favor of the appellant.  
18

19           6.     Conditions.  
20

21           A.     No "work" (defined as clearing, grading, construction of improvements  
22 (including without limitation, pools, saunas, spas, jacuzzis, screened enclosures buildings,  
23 landscaping, mailboxes or fences), decorations, attachments, fixtures, alterations, repairs,  
24 change of paint or stain color, pressure cleaning, or other like work shall be erected,  
25 constructed, affixed, placed, or altered on any lot or on any home located thereon until an  
26 application, with all required plans, specifications, exterior colors and/or finishes,  
27 landscaping plan, and plot plan showing the proposed location of such improvements  
28 attached has been approved by the ACC. The ACC cannot require an Owner to obtain a  
29 building permit for work described in an Application, but the ACC if it feels that  
30 Life/Safety issues are involved, can condition approval of an Application upon obtaining  
31 the appropriate permits.  
32

33           B.     No fence, wall, tree, hedge, shrub or flower bed shall be planted in, altered,  
34 or removed from a Front Yard, except as specified in an application submitted by such lot  
35 owner and approved by the ACC, but only in locations and in compliance with such terms  
36 and conditions as may be imposed by the ACC, including an obligation of maintenance,  
37 repair and replacement at the Owner's expense.  
38

39           C.     No clothing, laundry or wash shall be aired or dried on any portion of a lot  
40 in an area exposed to view from a street or any other Lot or Bear Lakes Country Club golf

1 course. Drying areas will be permitted only in locations approved by the ACC and only  
2 when protected from view by approved screening or fencing.  
3

4 D. No Owner shall construct, install, alter or remove any building, structure,  
5 improvement, machinery, fixture, or equipment, within a Front Yard, except that (1) an  
6 underground propane gas tank to supply gas to a swimming pool or an emergency  
7 generator, (2) an emergency generator and (3) a Heating, Ventilating and Air Conditioning  
8 unit ("HVAC") may be installed in the Front Yard, but only in locations and in compliance  
9 with such terms and conditions as may be imposed by the ACC, including an obligation on  
10 the part of the Owner (a) at such Owner's expense to maintain and repair such equipment  
11 and (b) to hold harmless the Association, its employees and agents, and members of the  
12 Board and the ACC against any and all death, injury and property loss that may result from  
13 locating such tank, generator or HVAC unit in the Front Yard.  
14

15 E. Installation of satellite television dishes is not subject to ACC approval.  
16

17 F. Installation of solar panels is not subject to ACC approval.  
18

19 7. Fees, Deposits. The Board may enact an ACC application fee of up to \$200 and  
20 may require a refundable security deposit of up to \$2,000 to cover the costs of repairs, removal of  
21 debris, injury to the Common Areas or other Lots, and personal injury to workers or other persons.  
22

23 ARTICLE IX  
24 ASSOCIATION EXPENSES, METHOD OF DETERMINING  
25 ASSESSMENTS, AND MAINTENANCE OF EXTERIOR AREAS  
26

27 1. The costs and expenses incurred by the Association with regard to the ownership,  
28 operation, maintenance and repair of the Common Areas shall be Association Expenses.  
29 Association Expenses shall be payable to the Association on an equal basis by all Owners.  
30

31 2. To defray Association Expenses, there is hereby imposed upon each Lot and its  
32 Owner, the affirmative covenant and obligation to pay to the Association, and upon the Association  
33 the obligation to assess, collect and expend, the Association's expenses and those other expenses  
34 hereinafter set forth.  
35

36 A. Taxes. All taxes levied or assessed upon the Common Areas, by any and all  
37 taxing authorities, including all taxes, charges and assessments, imposition and liens for  
38 public improvements, special charges and assessments; and, in general, all taxes on  
39 personal property and improvements which are now and which hereinafter may be placed

1 in the Common Area, including any interest penalties and other charges which may accrue  
2 on such taxes.  
3

4 B. Utility Charges. All charges levied for utility services to the Common Areas  
5 and the Members, whether supplied by a private or public firm including, without  
6 limitation, all charges for water, gas, electricity, telephone, sewer, alarm and any other type  
7 of utility or service charge, flat, metered or submetered.  
8

9 C. Insurance. All premiums on any policy or policies of insurance required  
10 under Article X hereof, together with the costs of such other policies of insurance, as the  
11 Board shall determine to be in the best interest of the Association, provided however, that  
12 fire and extended coverage on Common Areas shall be maintained on a current replacement  
13 cost basis in an amount not less than 100% of the insurable value based on current  
14 replacement cost.  
15

16 D. Insurance Trustee. All expenses necessary to retain and continue to retain  
17 a lending institution in Palm Beach County, Florida, having a trust department to act as  
18 "Insurance Trustee." The functions of the Insurance Trustee shall include holding all  
19 original policies purchased by the Association, being named as loss payee, distributing  
20 proceeds of such insurance, assisting in the reconstruction of improvements from insurance  
21 proceeds and performing such other functions as shall be agreed upon.  
22

23 E. Fidelity Coverage. All costs to the Association of purchasing adequate  
24 fidelity insurance or bonds to protect against dishonest acts on the part of officers, directors,  
25 trustees, agents and employees of the Association and all other persons who handle or are  
26 responsible for handling funds of the Association. Each fidelity insurance or bond must:  
27

28 (i) Name the Association as an obligee; and  
29

30 (ii) Be written in the amount equal to at least 150% of three months  
31 operating expenses of the Association, and the amount in reserve as of the end of  
32 each fiscal year of the Association; and  
33

34 (iii) Contain waivers of any defense based upon the exclusion of persons  
35 who serve without compensation from any definition of "employee" or a similar  
36 expression; and  
37

38 (iv) Provide that it may not be cancelled or substantially modified  
39 (including cancellation for nonpayment of premiums) without at least thirty (30)  
40 days prior written notice of the servicer or the insured.

---

1           F.     Reconstruction of buildings and improvements. All sums necessary to  
2     repair, replace, construct or reconstruct ("repair") any buildings or improvements located  
3     in the Common Areas damaged by any casualty to the extent insurance proceeds are  
4     insufficient for repair. Any difference between the amount of insurance proceeds received  
5     on behalf of the Association with respect to repair and the actual cost of the repair ("repair  
6     sums") shall be an Association Expense for which the Association shall levy a special  
7     assessment against all Owners, if any, to obtain the funds necessary to pay for such repair  
8     sums within ninety (90) days from the date such damage was incurred. The Association  
9     shall establish an account with an Institutional Mortgagee located in Palm Beach County,  
10    Florida, and deposit into such account all repair sums and all insurance proceeds collected  
11    by the "Insurance Trustee," if any, so that the amounts on deposit will equal the costs of  
12    repair. The Association shall proceed so that repairs shall be completed within one (1) year  
13    from the date of damage, if possible.

14  
15           G.     Maintenance, repair and replacement. All expenses necessary to maintain  
16    and repair the lawns, landscaping and sprinkler systems located in the Front Yard of each  
17    Lot, the Common Areas, and the road rights-of-way abutting the Common Areas.

18  
19           H.     Optional expenses. The costs of administration for the Association,  
20    including any secretaries, bookkeepers and other employees necessary to carry out the  
21    obligations and covenants of the Association under the Declaration, notwithstanding the  
22    fact that some of these services may be expanded in providing services to collecting sums  
23    owed by a particular Owner. In addition, the Association may retain a licensed property  
24    management company, an individual with a CAM license, or licensed contractors to assist  
25    in the operation of the Association and to perform or assist in the performance of certain  
26    obligations of the Association hereunder. The Association may also retain a contractor to  
27    maintain an electronic web-site. The fees or costs of any management company, individual  
28    or contractor so retained shall be deemed to be part of the Association's Expenses.

29  
30           I.     Indemnification. The costs to the Association to indemnify its employees,  
31    officers and members of the Board, the ACC and the Fines Committee for all costs and  
32    expenses whatsoever incurred in pursuance of their duties, obligations and functions  
33    hereunder.

34  
35           J.     Reserve funds. The costs to establish an adequate reserve fund for  
36    replacement and/or capital refurbishment of the Common Areas and the payment of other  
37    common expenses (the "capital contributions") in the amounts determined proper and  
38    sufficient by the Board, if any. Each Owner acknowledges, understands and consents that  
39    capital contributions are the exclusive property of the Association as a whole, and that no  
40    Owner shall have any interest, claim or right to any such capital contributions or funds

1 composed of the same. The Association shall be responsible for maintaining the capital  
2 contribution in a separate reserve account and to use such funds only for capital costs and  
3 expenses as aforesaid.  
4

5 K. Special assessments. Any special assessment levied to defray (i)  
6 extraordinary items of Association expense other than those contemplated by capital  
7 contribution; and (ii) such other Association expenses determined by the Board to be  
8 payable by the Association and which are not inconsistent with the terms of Governing  
9 Documents. Special assessments for cleaning or painting Owners' roofs, fascias and soffits  
10 shall be abated by the Board with respect to Owners who have been determined by the  
11 Board to have cleaned or painted their roofs, fascias and soffits in a satisfactory manner and  
12 on a reasonable schedule.  
13

14 L. Villages POA. All amounts payable to Villages POA for the maintenance  
15 and repair of the Common Areas of the Villages POA shall be assessed to the Owners  
16 through the Association in accordance with the Villages of Palm Beach Lakes Declaration  
17 of Covenants and Restrictions, as amended from time to time.  
18

19 3. First Mortgagees. First Mortgagees of Lots may, jointly or singularly, pay taxes or  
20 other charges which are in default, and which may or have become a charge or encumbrance  
21 against the Common Areas, and may pay overdue premiums on hazard insurance policies or new  
22 hazard coverage upon lapse of a policy with respect to the Common Areas, with a right of  
23 immediate reimbursement from the Association.

24 4. Bulk Rate Cable Television, Telecommunication and Communication Services and  
25 Security (Alarm) Systems. The Association through the Board is authorized to enter into bulk rate  
26 contracts for cable, satellite or other television or telecommunication signal distribution and other  
27 communication systems, including fiber optic systems; and security (alarm) systems (for both the  
28 Common Areas and the Lots), and charges related thereto shall be an Association Expense.  
29

30 5. Method of Determining Assessments. The "assessments" (as hereinafter defined)  
31 for Association expenses shall be levied and paid for as follows:  
32

33 A. It is hereby declared and all Owners and the Association agree that the  
34 Association expenses shall be paid by the Association out of funds assessed and collected  
35 from and paid by all Owners.  
36

37 B. As provided in the By-Laws of the Association, the Board shall prepare an  
38 estimated annual budget which shall reflect the estimated Association Expenses. The total  
39 number of Lots in Bear Island shall be used as the denominator and the number "1" shall  
40 be used as the numerator for the calculation of equal shares of Association Expenses. For

1 example, if the total number of lots is two hundred twenty seven (227), each Lot shall be  
2 liable for 1/227 of Association Expenses.  
3

4 C. The assessments may be adjusted by the Board from time to time as  
5 necessary to allow for any change in the amount of estimated Association Expenses. The  
6 adjustment may be made by dividing the total anticipated Association expenses for the  
7 remainder of the calendar year by the total number of Lots in Bear Island.  
8

9 D. The assessments shall be payable no less frequently than quarter-annually  
10 in advance on the first day of January, April, July and October, or otherwise as the Board  
11 may determine.  
12

13 ARTICLE X  
14 INSURANCE  
15

16 1. Casualty. The Association shall maintain a master policy or policies to insure all  
17 Association property against casualty loss. This coverage shall insure 100% of the current  
18 replacement cost of the Common Area improvements, personal property, and supplies. It shall be  
19 in such amounts so that the insured will not be a co-insurer except under deductible clauses  
20 required to obtain coverages at a reasonable cost.  
21

22 A. The coverages will EXCLUDE the following:  
23

- 24 (i) Land, foundations, excavations or other items that are usually  
25 excluded from insurance coverage; and  
26 (ii) Any increase in the value of Association property as a result of  
27 special improvements, alterations and betterments.  
28

29 B. The coverage will INCLUDE the following:  
30

- 31 (i) Loss or damage by fire or other hazards covered by a standard  
32 extended coverage endorsement;  
33 (ii) All other perils customarily covered for similar types of projects,  
34 including those covered by the "standard all risk" endorsement;  
35 (iii) Agreed Amount and Inflation Guard Endorsement, when it can be  
36 obtained;  
37 (iv) Demolition Cost Endorsements, Contingent Liability from Operation  
38 of Building Laws Endorsement, and Increased Cost of Construction Endorsement;  
39 and

(v) Steam Boiler Endorsement, if applicable, providing at least \$50,000.00 coverage for each accident at each location;

C. When appropriate and possible, the policies shall waive the insurer's right to:

(i) Subrogation against the Association and against the ~~lot~~ Owners, individually and as a group;

(ii) The pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

(iii) Avoid liability for a loss that is caused by an act of the Board, or by a member of the Board or by one or more ~~lot~~ Owners.

D. In addition, the policy shall provide that:

(i) Any Insurance Trust Agreement will be recognized;

(ii) The policy shall be primary, even if the Association has other insurance that covers the same loss; and

(iii) The named insured shall be the Association. The "loss payable" clause should show ~~said~~ *the* Association or the designated insurance trustee.

## 2. Reconstruction and Repair after Casualty.

A. Under ordinary circumstances Association property which is damaged by casualty shall be reconstructed and repaired. If a dispute arises as to whether the Association property should be repaired or reconstructed, the Board shall make the determination to repair or reconstruct. All Owners shall be bound by this determination.

B. Although it is impossible to anticipate all problems which may arise from a casualty the intent is to try to assure that the overall quality of the General Development Plan of Bear Island is maintained by requiring damaged Association property to be rebuilt or repaired and that unsightly and dangerous conditions are remedied as soon as possible. Any reconstruction and repair must be substantially in accordance with the plans and specifications for such property as originally constructed, or if none, then according to plans and specifications approved by the Board. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during that work or upon completion of the work the funds available for payment of the costs are insufficient, *special* assessments shall be made by the

---

1 Association against all ~~tot~~ Owners in sufficient amounts to provide funds for the payment  
2 of those costs.  
3

4 3. Public Liability Coverage. The Association shall obtain comprehensive general  
5 liability coverage insuring the Association, its employees and agents, officers and members of the  
6 Board, members of the ACC and members of the Fines Committee against any and all claims and  
7 demands made by any person or persons for injuries received in connection with the operation and  
8 maintenance of the Common Areas and improvements located thereon, or for any other risk insured  
9 against by such policies (including what is commonly called Errors and Omissions) which the  
10 Board, in its sole discretion, determines to insure against. Each policy purchased by the Association  
11 shall have limits of not less than \$5,000,000.00 covering all claims for personal injury and property  
12 damage arising out of a single occurrence. The liability coverage shall include protection against  
13 liability for non-owned and hired automobiles and liability for hazards related to usage. In addition,  
14 the coverage shall include protection against liability that results from actions related to  
15 employment contracts in which the Association is a party. All such policies will name the  
16 Association, its employees and agents, and officers and members of the Board, members of the  
17 ACC and members of the Fines Committee, as their respective interests may appear, as insured  
18 parties under such policy or policies.  
19

20 4. Fidelity Bond Coverage. The Association shall obtain Fidelity Bonds covering  
21 officers, directors, employees and other persons who handle or are responsible for handling  
22 Association funds. Such bonds shall be in an amount equal to at least one hundred fifty percent  
23 (150%) of three months operating expenses, ~~and~~ *plus* the amount in reserve as of the end of each  
24 fiscal year of the Association and shall contain waivers of any defense based upon the exclusion  
25 of persons serving without compensation.  
26

27 5. Flood Insurance. If any part of the Common Areas are in a special flood hazard  
28 area, as defined by the Federal Emergency Management Agency, the Association shall insure same.  
29 The coverage shall be 100% of the current replacement cost of any Common Area improvements  
30 or buildings and other insurable common property, or the maximum coverage available for such  
31 improvements, buildings, or property under the National Flood Insurance Program.  
32

33 6. All insurance shall be issued by a company authorized to do business in the State  
34 of Florida.  
35

36 7. Premiums on policies purchased by the Association shall be paid as an Association  
37 Expense. The Association will furnish evidence of premium payment to each mortgagee upon  
38 request.  
39



1           A.     To accelerate the entire amount of any assessments for the remainder of the  
2     calendar year notwithstanding any provisions for the payment thereof in installments.  
3

4           B.     To advance on behalf of the defaulting Owner funds to accomplish the needs  
5     of the Association and the amount or amounts of money so advanced, including reasonable  
6     attorneys' fees and expenses which might have been reasonably incurred because of or in  
7     connection with such advance, including costs and expenses of the Association if it must  
8     borrow to pay expenses because of the Owner's default, together with interest at the highest  
9     rate allowable by law, may thereupon be collected or enforced by the Association and such  
10    advance or loan by the Association shall not waive the default.  
11

12           C.     To file an action in equity to foreclose its lien at any time after the effective  
13    date thereof. The lien may be foreclosed by an action in the name of the Association in a  
14    like manner as the foreclosure of a mortgage on real property.  
15

16           D.     To file an action at law to collect said assessments, plus interest at the  
17    highest rate allowable by law plus court costs, without waiving any lien rights and/or rights  
18    of foreclosure by the Association.  
19

20           E.     To charge (i) interest at the rate of 18 per cent per year and (ii) an  
21    administrative late fee of the greater of Twenty Five (\$25.00) Dollars or five percent (5%)  
22    of the amount in default until paid in full.  
23

24           F.     An Owner, regardless of how his title to the Lot has been acquired, including  
25    by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all  
26    assessments that come due while he is the Owner of the Lot. The Owner's liability for  
27    assessments may not be avoided by waiver or suspension of the use or enjoyment of any  
28    common area or the abandonment of the Lot subject to such assessments. The Owner is  
29    jointly and severally liable with the previous Owner for all unpaid assessments that came  
30    due up to the time of transfer of title, subject, with respect to a first mortgagee or its  
31    successor, or an assignee, as a subsequent holder of the first mortgage, who acquires title  
32    by foreclosure or by deed in lieu of foreclosure, to the limitations of Section  
33    720.3085(2)(c), Florida Statutes, as amended from time to time. This liability is without  
34    prejudice to any right the present Owner may have to recover any amounts paid by the  
35    present Owner from the previous Owner.  
36

37  
38                   SPACE INTENTIONALLY LEFT BLANK  
39  
40

[illegible]

1. This Declaration may be amended only by consent of the Owners of fifty-one percent (51%) of all Lots at a meeting of the Members called for that purpose.

2. Notwithstanding the foregoing, no amendment to Article IX or X, and no other amendment shall be effective which shall in a material fashion impair or prejudice the rights or priorities of any Owner, the Association, or any Institutional Mortgagee under this Declaration without the specific written approval of the Owner, the Association, or the Institutional Mortgagee affected thereby. In addition, any amendment which would affect the surface water management system, including the water management portions of the common areas, must have the prior approval of the South Florida Water Management District.

4. An amendment to the Declaration shall become effective upon the recordation in the Public Records of Palm Beach County, Florida.

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ARTICLE XIV  
SALES AND LEASES

In order to assure a community of congenial residents and thus protect the value and security of the homes in Bear Island community, the sale or lease of homes shall be subject to the following provisions:

1. The Owner shall notify the Association in writing of the Owner's intention to sell or lease the Owner's home and furnish with such notification a copy of the contract for sale or lease, whichever is applicable.

2. Any and all lease agreements between an Owner and a lessee of such Owner shall be in writing, must provide for a term of not less than six (6) months, and must provide that the lessee shall be subject in all respects to the terms and provisions of the Governing Documents and that any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. The lease agreement shall also state who will be responsible for the assessments, and it shall be the obligation of the Owner to supply the Board with a copy of the written lease agreement prior to the lessee occupying the premises. Unless provided to the contrary in a lease agreement, an Owner, by leasing such Owner's home, automatically delegates such Owner's right of use and enjoyment of the Common Areas and facilities to the lessee; and in so doing, the Owner relinquishes all such rights during the term of the lease agreement.

3.

A. In the event of a sale the purchaser shall also furnish to the Association no later than the closing date of such sale (i) the new Owner's mailing address for all future *assessments* and other correspondence from the Association, (ii) a written acknowledgment signed by the new Owner that the new Owner has been provided with true copies of the Governing Documents, has read them and agrees to abide by them, as they may be amended from time to time, and (iii) passport-sized photographs of each permanent Occupant of the Lot. The new Owner shall also provide the Association with passport-sized photographs of permanent Occupants who reside in the home in the future no later than the date of such occupation.

B. In event of a lease the Owner shall also furnish the Association with (i) the mailing address of the person to whom all future assessments and other correspondence from the Association shall be sent, (ii) a written acknowledgment signed by the lessee that the lessee has been provided with true copies of the Governing Documents, has read them and agrees to abide by them as they may be amended from time to time, and (iii) passport-sized photographs of each Occupant of the Lot. The lessee shall also provide the

1 Association with passport-sized photographs of permanent Occupants who reside in the  
2 home in the future no later than the date of such occupation.  
3

4 C. Upon receipt of a copy of the contract for sale or lease meeting the requirements set  
5 forth in Sections 1, 2 and 3A or 3B above, the Association shall within twenty (20) business days,  
6 issue a Certificate indicating the Association's approval of the transaction.  
7

8 4. Except as provided in paragraph 5 below, it is not the intention of this Article to  
9 grant to the Association a right of approval or disapproval of purchasers or lessees. It is, however,  
10 the intent of this paragraph to impose an affirmative duty on the Owners to keep the Association  
11 fully advised of any changes in occupancy or ownership for the purposes of facilitating the  
12 management of the Association's records and the security of homes and residents of Bear Island.  
13 As this Article is a portion of the Declaration which runs with the land, any transaction which is  
14 conducted without compliance with this Article may be voidable by the Association.  
15

16 5. Notwithstanding the provisions of Sections 3 and 4 above, if any assessment is  
17 delinquent, or an Owner or an Owner's purchaser, or the family, guests, agents, licensees or  
18 invitees of the Owner or Owner's purchaser are not in compliance with any provisions of the  
19 Governing Documents, the Board has the right to disapprove of any proposed sale prior to closing;  
20 and in the case of a lease, the right to disapprove of and to void any lease at any time prior to or  
21 during the leasehold tenancy until any delinquent assessment is paid and/or until any violation of  
22 any provision of the Governing Documents is corrected. If the Board disapproves or voids a sale  
23 or lease, but the purchaser or tenant does not vacate the Lot, the Board may file suit to evict the  
24 purchaser or tenant and recover its reasonable attorneys' fees and costs, as determined by the court,  
25 against the Owner and the purchaser or tenant, jointly and severally. This right of eviction is in  
26 addition to all other remedies available to the Association.  
27

28 6. The Association may charge a nonrefundable lease or purchase application fee of  
29 at least One Hundred Dollars (\$100.00).  
30

31 ARTICLE XV  
32 TERMINATION  
33

34 1. This Declaration, as amended from time to time, will continue unless and until it  
35 is terminated upon the affirmative written consent of the Owners of eighty percent (80%) of all  
36 Lots and upon the affirmative written consent of all Institutional Mortgagees holding mortgages  
37 encumbering lots.  
38

2. If this Declaration is terminated in accordance herewith, it is hereby declared by the Association, and each and every Owner of a Lot by acquiring title thereof covenants and agrees, that the termination documents shall require:

A. That all homes shall continue to be used solely as single family residences.

B. All Common Areas shall be owned and held in equal shares by the ~~lot~~ Owners as tenants in common, and each Owner shall remain obligated to pay such Owner's pro rata share of expenses required to maintain, repair and replace, if necessary, the Common Areas.

3. The Owners and their grantees, successors, and assigns, by acquiring title to a Lot covenant and agree that no termination of this Declaration shall be made for a period of twenty-five (25) years from the date of recordation of this Declaration. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the subject property and inure to the benefit of the Association, the Owners, Institutional Mortgagees and their respective legal representatives, heirs, successors, and assigns for such period. After such period, the Declaration shall be automatically renewed and extended for successive periods of ten (10) each unless at least one (1) year prior to the termination of such twenty-five (25) year term or any such ten (10) year extension there is recorded amongst in the Public Records of Palm Beach County, Florida, an instrument signed by at least eighty percent (80%) of all Institutional Mortgagees holding mortgages encumbering the Lots agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of twenty-five (25) years or the ten (10) year extension thereof during which the termination instrument is recorded.

4. If the Association is terminated, the property consisting of the surface water management system operated and maintained as part of the Common Areas shall be conveyed to an appropriate agency of local government, and if not accepted thereby, then it must be conveyed to a similar non-profit corporation.

## ARTICLE XVI

VILLAGES OF PALM BEACH LAKES PROPERTY OWNERS ASSOCIATION., INC.

Each Owner in Bear Island is a mandatory member of the Villages of Palm Beach Lakes Property Owners Association, Inc. The Association is obligated to collect and to pay to the Villages POA such assessments for expenses as are billed to each Owner. Each Owner agrees to accept membership in said Villages POA, and further agrees to be bound by all of the terms, provisions, and conditions contained in the Declaration of Covenants and Restrictions, Articles of Incorporation, and the By-Laws of the Villages POA, as amended from time to time, including, without limitation, the duty to pay the assessments of Villages POA through the Association.

---

ARTICLE XVII  
MISCELLANEOUS

1  
2  
3  
4       1.       The failure of the Association, or any Owner to object to an Owner's or other  
5 person's failure to comply with the Governing Documents shall in no event be deemed a waiver  
6 of any right to object to same and to seek compliance therewith in accordance with the provisions  
7 herein.

8  
9       2.       Article and paragraph captions inserted throughout this Declaration are intended  
10 only as a matter of convenience and for reference only and in no way shall such captions or  
11 headings define, limit or in any way affect any of the terms and provisions of this Declaration.

12  
13       3.       Whenever the context requires, any pronoun used herein may be deemed to mean  
14 the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns  
15 or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

16  
17       4.       In the event any one of the provisions of this Declaration shall be deemed invalid  
18 by a court of competent jurisdiction, said judicial determination shall in no way affect any of the  
19 other provisions hereof, which shall remain in full force and effect.

20  
21       5.       The Association may not convey, encumber, abandon, partition or subdivide any  
22 of the Common Areas without the approval of all Institutional Mortgagees. An Institutional  
23 Mortgagee, upon written request to the Association, shall be entitled to written notification from  
24 the Association of (a) any default by the Owner of a Lot encumbered by such mortgage of any  
25 obligation hereunder not cured within sixty (60) days after the Association has given notice to such  
26 Owner of such default, (b) any condemnation loss or any casualty loss which affects a material  
27 portion of the General Plan of Development or any Lot encumbered by such mortgage, and (c) any  
28 cancellation or material modification of any insurance policy or fidelity bond maintained by the  
29 Association. The Association shall be deemed to have complied with the provisions of this Section  
30 if it mails the notice to the last known address of the Institutional Mortgagee whose request in on  
31 file with the Association.

32  
33       6.       Upon written request after reasonable notice, the Association is required to make  
34 available to any Owner and to any lender, holder, insurer or guarantor of any first mortgage, for  
35 inspection or copying at the expense of the person requesting them and during normal business  
36 hours or at such other times as the parties may agree, current copies of the Governing Documents,  
37 as well as the books, records, and financial statements of the Association.

38  
39       7.       Upon written request to the Association, identifying the name and address of the  
40 holder, insurer, or guarantor and the lot number and address, such mortgage holder, insurer, or

---

1 guarantor will be entitled to timely notice of any proposed action that requires the consent of a  
2 specified percentage of mortgage holders. The Association shall be deemed to have complied with  
3 the provisions of this Section if it mails the notice to the last known address of the person whose  
4 request is on file with the Association.

5  
6       8.       Notwithstanding any provision to the contrary set forth above, unless at least two-  
7 thirds of the first mortgagees (based on one vote for each first mortgage owned) or the Owners of  
8 two-thirds of the Lots have given their written approval, the Association, by act or omission, may  
9 not change, waive or abandon (i) the method of determining the assessments or other charges that  
10 may be levied against a lot owner; or (ii) any scheme of regulations or their enforcement pertaining  
11 to architectural design or the exterior appearance of lots (except as may be required by law), or (iii)  
12 the care and maintenance of the Common Areas; or (iv) use hazard insurance proceeds for losses  
13 to the Common Areas other than for the repair, replacement, or reconstruction of the Common  
14 Areas.

15       9.       Each Owner will be subject to the taxing authority of the Northern Palm Beach  
16 County Water Control District.

17  
18       10.      Common Area street lighting will be obtained by the Association from Florida  
19 Power & Light Company ("FPL") or from any other provider legally empowered to provide electric  
20 energy, or by means of solar power panels or other developing technology.

21  
22

*END*

---

**EXHIBIT "A" TO AMENDED AND RESTATED DECLARATION  
OF COVENANTS AND RESTRICTIONS FOR BEAR ISLAND**

ALL of the Plat of BEAR ISLAND, according to the plat thereof recorded in Plats Book 57, Pages 55-59, inclusive, Public Records of Palm Beach County, Florida, such lands lying and being in the County of Palm Beach, State of Florida.

BEAR ISLAND

HOMEOWNERS DOCUMENTS

Declaration of Covenants and Restrictions for  
Bear Island

Rules and Regulations of Bear Island

Articles of Incorporation for Bear Island Home-  
owners Association, Inc.

By-Laws of Bear Island Homeowners Association,  
Inc.

Form of Special Warranty Deed

Contract for Purchase and Sale of a lot in  
Bear Island

Escrow Agreement

Return to: (enclose self-addressed stamped envelope)

Name

Address

JAN-08-1988 03:06pm 88-006272

ORB 5540 Pg 731

Property Appraisers Parcel Identification (Fofo) Number(s):

DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
BEAR ISLAND

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this 23<sup>rd</sup> day of July, 1987, by BURG & DIVOSTA CORPORATION, a Florida corporation, hereinafter called the "DEVELOPER", and by BEAR/HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, hereinafter called the "ASSOCIATION".

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Exhibit "A" to this Declaration; and the Developer desires to create thereon a planned community of single-family homes with permanent open spaces, and traffic and open areas for the benefit of the community; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in said community, and for the maintenance of the properties and improvements thereon, and to this end desires to subject the real property described in Exhibit A to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an entity to which should be delegated and assigned the powers of owning, maintaining, and administering the community properties and facilities; administering and enforcing the covenants and restrictions; collecting and disbursing the assessments and charges hereinafter created; and promoting the convenience, safety, and welfare of the residents; and

WHEREAS, Developer has incorporated under the laws of the State of Florida BEAR ISLAND HOMEOWNERS ASSOCIATION, INC. as a non-profit corporation for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer hereby declares that the real property described in Exhibit A is and shall be held, transferred, sold, conveyed and occupied subject to the terms, conditions, covenants, provisions, restrictions, easements, servitudes, and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth, which shall be binding on all persons, their heirs, successors, and assigns having any right, title or interest in or to the real property, and shall inure to the benefit of each lot owner.

This instrument was prepared by:  
William E. Shannon, Jr.  
10385 Ironwood Road  
Palm Beach Gardens, FL 33410

Burg &  
Divosta

ARTICLE I

DEFINITIONS

1. "Articles" shall mean the Articles of Incorporation of the Association.
2. "Association" shall mean and refer to Bear Island Homeowners Association, Inc., its successors and assigns.
3. "Association Expenses" shall mean the expenses payable by owners to the Association as shall be set forth in this Declaration.
4. "Association Property" shall mean all real and personal property transferred to the Association for the benefit of all members.
5. "Bear Island" is the name given to a planned residential community of single family homes to be constructed by Developer in the City of West Palm Beach, Florida. The Plat of Bear Island is recorded in Plat Book 57, Pages 55-59, inclusive, of the Public Records of Palm Beach County, Florida.
6. "Bear Island Homeowners Association, Inc." shall mean that certain entity created to manage, maintain, and control the Common Areas of Bear Island. It may also be referred to as the "Homeowners Association" or "HOA".
7. "Board" shall mean the Board of Directors of the Association.
8. "Common Area" shall mean those areas of real property shown on the subdivision plat of Bear Island together with all improvements thereto, which are devoted to the common use and enjoyment of the members of the Association. The term "Common Area" may sometimes be used interchangeably with the term "Association Property".
9. "Declaration" shall mean the covenants, conditions, restrictions, easements, and all other terms set forth in this document, and as may be amended from time to time.
10. "Developer" shall mean and refer to BURG & DIVOSTA CORPORATION, a Florida corporation, its successors and assigns.
11. "General Plan of Development" shall mean the subdivision plat of Bear Island, as approved by the appropriate governmental agencies, and which shall represent the development plan and general uses of the real property.
12. "Homeowners Documents" means in the aggregate this Declaration, the Articles, the By-Laws of the Association, the Rules and Regulations of the Association, the Contract for Purchase and Sale of a Lot, the Escrow Agreement, and all of the

instruments and documents referred to herein and executed in connection with the general plan of development, including without limitation, the Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, and the Articles of Incorporation and By-Laws of the Villages of Palm Beach Lakes Property Owners Association, Inc.

13. "Institutional Mortgagee" shall mean any lending institution having a first lien on a "Lot" (hereinafter defined), including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state building and loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a federal or state banking association, the Palm Beach County Housing Authority or similar entity, a real estate investment trust, or any mortgage banking company authorized to do business in the State of Florida.

14. "Lot" shall include a parcel of real property as described on the subdivision Plat of Bear Island, a zero lot line, single family home (also referred to as "Home"), and a membership interest in Bear Island Homeowners Association, Inc., and in the Villages of Palm Beach Lakes Property Owners Association, Inc.

15. "Lot Perimeter Wall" means the exterior wall of a single family home which is located approximately two (2) feet from the lot line.

16. "Occupant" shall mean the occupant of a single family home in Bear Island, who shall be the owner, the lessee, or their respective guest.

17. "Owner" shall mean the fee simple title holder of any lot, whether one or more persons or entities.

18. "Property" shall mean all of the real and personal property subject to this Declaration. The real property is described in Exhibit A, attached hereto and made a part hereof.

19. "Rules and Regulations" shall mean the rules, regulations, and policies which are attached to and incorporated into this Declaration, and as may be adopted by the Board from time to time by resolution duly made and carried.

20. "Single family" means one person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or not more than two persons living together who may or may not be interrelated.

21. "Transfer Date" shall mean the date that the Developer relinquishes the right to appoint a majority of the Directors to the Board of Directors of the Association and conveys legal title to the Common Area to the Association. The transfer date shall

occur 120 days after the Developer has closed the sales of 70% of the 227 lots contemplated by the general plan of development, or three years after the Developer has closed the sale of the first lot in Bear Island or after the Developer elects to relinquish its control of the Association, whichever shall first occur.

22. "Villages of Palm Beach Lakes" shall mean the property platted as the Village of Palm Beach Lakes, Plat No. 1, recorded in Plat Book 41, Pages 174-180, Public Records of Palm Beach County, Florida, and the Village of Palm Beach Lakes, Plat No. 2, recorded in Plat Book 44, Pages 1-19, Public Records of Palm Beach County, Florida.

23. "Villages of Palm Beach Lakes Property Owners Association, Inc." shall mean that certain entity created to manage, maintain, and control the Common Areas of the Villages of Palm Beach Lakes. It may also be referred to as the "Villages POA".

## ARTICLE II

### GENERAL PLAN OF DEVELOPMENT

1. Developer intends to build two hundred twenty seven (227) single family homes at Bear Island.

2. If sales response warrants the development, it is the intention of the Developer to develop Bear Island in two (2) phases. All phases may not be completed in their entirety, but the Developer will complete any lot for which a City of West Palm Beach building permit is obtained. Development of the first phase shall be commenced within 90 days of the recording of this Declaration in the Public Records of the County. The phases may be developed in any sequence. The anticipated sequence of construction of the phases, and the units to be contained in the respective phases are set forth below:

| <u>Phase</u> | <u>Bear Island Lot Numbers</u> |
|--------------|--------------------------------|
| 1            | 1 to 123 inclusive             |
| 2            | 124 to 227 inclusive           |

3. Those portions of the Common Areas shown as roadways on the Site Plan shall be kept and maintained by the Association as private roadways for ingress to and egress from the lots, other areas of Bear Island, and the publicly and privately dedicated roads of The Villages of Palm Beach Lakes.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

1. The owner of the fee simple title of record of each lot shall be a mandatory member of the Association.

2. Each lot owner shall become a member of the Association upon acceptance of the special warranty deed to his lot. As a member of the Association, the owner shall be governed by the Articles of Incorporation and the By-Laws of the Association; and shall be entitled to one (1) vote for each lot owned; provided however, the Developer shall retain the right to appoint a majority of the directors to the Board of Directors of the Association until the Transfer Date.

ARTICLE IV

USE OF PROPERTY

1. The lots shall be used solely for zero lot line, single family purposes. Nothing herein shall be deemed to prevent an owner from leasing a home to a single family, subject to all of the terms, conditions and covenants contained in this Declaration.

2. The homeowner shall not permit any nuisance to exist upon his property so as to be detrimental to any other property or to its owners. No homeowner or lessee shall make or permit any noise that will disturb or annoy the occupants of any other homeowner, or do or permit anything to be done which will interfere with the rights, comfort or convenience of other occupants.

3. No homeowner or lessee shall do or permit any act or failure to act which shall cause any Association insurance policy to become void or suspended, nor which would cause any increase in premiums payable by the Homeowners Association.

4. No garage shall be used as a living area. The lot shall not be further subdivided or separated by any owner; and no portion less than all of any such lot, nor any easement or other interest granted herein, shall be conveyed or transferred by an owner; provided, however, that this shall not prevent corrective deeds, deeds to resolve boundary disputes and other similar corrective instruments.

5. The single family homes shall not be used in any trade, business, professional or commercial capacity, except that the home may be leased as a single family residence, and except that the home may be used as combined residence and executive or professional office by the homeowner, so long as such use does not interfere with the quiet enjoyment of other homeowners. Nothing contained herein shall prohibit the Developer from carrying on any and all types of construction activity necessary

to accomplish the general plan of development, including the construction and operation of a sales model and office by the Developer until all of the lots have been sold.

6. No animals shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept on the lot, provided they are not kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no homeowner may keep more than two (2) dogs and no animal may be kept on the lot which in the judgment of the Board results in a nuisance or is obnoxious to the residents in the vicinity. No Owner shall be permitted to maintain on the premises a pit bull, a doberman pinscher, a German Shepard, a greyhound, any dog containing partial blood of the aforementioned types of dogs, or any dog/or dogs generally considered to be of mean or of violent temperament or otherwise evidencing such temperament. Pets shall not be permitted in any of the Common Areas of Bear Island unless under leash. Each pet owner shall be required to clean up after the pet in order to properly maintain the Common Areas. Each lot owner by acquiring a lot at Bear Island agrees to indemnify the Association, and hold it harmless against any loss or liability resulting from his, his family member's, or lessee's ownership of a pet. If a dog or any other animal becomes obnoxious to other homeowners by barking or otherwise, the owner shall remedy the problem or upon written notice from the Association, he will be required to dispose of the pet.

7. All draperies, curtains, shades, or other window coverings installed in a home, and which are visible from the exterior of a home shall have a white backing unless otherwise approved in writing by the Board. No sign, symbol, name, address, notice, or advertisement shall be inscribed or exposed on or at any window or other part of a home or common areas without the prior written approval of the Board.

8. No motorcycle, all-terrain vehicle (excluding passenger cars with four-wheel drive, i.e. Jeeps, Broncos, Blazers, and similar vehicles), truck, trailer, boat, van, camper, motorhome, bus, or similar vehicle shall be parked on any lot, or driveway, within the confines of Bear Island except: (1) within a single family home garage, (2) commercial vehicles, vans, or trucks delivering goods or furnishing services temporarily during daylight hours, and (3) upon such portions of Bear Island as the Board may, in its sole discretion, allow. In the event that there is a dispute concerning the type of vehicle, then the State of Florida vehicle registration shall control. The Association shall have the right to authorize the towing away of any vehicles in violation of this rule with the costs and fees, including attorneys' fees, if any, to be borne by the vehicle owner or violator.

9. The Developer shall install a sprinkler system on each lot, however, irrigation water service shall be at the expense of each lot owner. All owners shall provide reasonable and

sufficient water service to the lawn and landscaped areas in order to maintain the appearance of the development. No wells shall be drilled on any lot for irrigation or any other purpose.

10. All weeds, rubbish, debris, or unsightly materials or objects of any kind shall be regularly removed from the lots and shall not be allowed to accumulate thereon. All refuse containers (except on scheduled trash pick-up days), all machinery and equipment, and other similar items of personal property shall be obscured from view of adjoining streets, lots or common areas.

11. Each homeowner who intends to be absent from his home during the hurricane season (June 1 - November 30 of each year) shall prepare his home prior to his departure by doing the following:

A. Removing all furniture, potted plants, and other movable objects from his yard; and

B. Designating a responsible person or firm, satisfactory to the Association, to care for his home should it suffer hurricane damage. Such person or firm shall also contact the Association for permission to install temporary hurricane shutters, which must be removed when no longer necessary for storm protection. At no time shall hurricane shutters be permanently installed without the prior written consent of the Board.

12. The homeowners shall abide by each and every rule and regulation promulgated from time to time by the Board. The initial Rules and Regulations of the Association are attached hereto, made a part hereof and marked Exhibit "B". The Board shall give an owner in violation of the Rules and Regulations, written notice of the violation by U.S. Certified Mail, return receipt requested, and fifteen (15) days in which to cure the violation.

13. Should the Association be required to seek enforcement of any provision of this Declaration or the Rules and Regulations, then and in that event, the offending homeowner (for himself or for his family, guests, invitees, or lessees) shall be liable to the Association for all costs incurred in the enforcement action, including reasonable attorneys' fees, whether incurred in trial or appellate proceedings or otherwise.

#### ARTICLE V

#### EASEMENTS

1. The Developer hereby grants a perpetual non-exclusive easement to the Association and to the homeowners, their families, guests, and lessees upon, over, and across the sidewalks, walkways, and rights-of-way and other common areas.

The Developer hereby grants an additional perpetual non-exclusive easement to the Association over, across, through, and under all lots for the purpose of performing the maintenance and repair requirements of the Association as described in this Declaration. The Association, its assigns or representatives shall enter upon an owner's lot only after reasonable notice has been given to the owner.

2. The Developer hereby also grants a perpetual non-exclusive easement to all utility or service companies servicing Bear Island upon, over, across, through, and under the lots and common areas for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including, but not limited to water, irrigation, sewer, gas, telephone, electricity, television cable or communication lines and systems. It shall be expressly permissible for the Developer or the providing utility or service company to install and maintain facilities and equipment on said property, to excavate for such purposes and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the homes, providing such company restores any disturbed area substantially to the condition existing prior to their activity; provided, however, that no utility service line or system may be installed or relocated within the common areas without the consent of the Association. The easements over, across, through and under the lots shall be limited to improvements as originally constructed.

3. The Developer hereby grants to each owner a two (2) foot sideyard easement over that portion of an adjacent lot on which a lot perimeter wall and party fence (hereinafter defined) have been located. Said sideyard easement is granted for the sole purpose of maintaining the exterior of such lot perimeter wall and party fence adjoining the easement area. The easement area shall be used exclusively by the owner of the lot adjoining the easement area, or by the Association, its successors or assigns. The easement area shall not be used in any manner by the owner of the lot holding fee simple title to the easement area.

4. The Developer hereby grants an easement for encroachment in the event any improvements upon the common areas now or hereafter encroaches upon a lot, or in the event that any lot now or hereafter encroaches upon the common area, as a result of minor inaccuracies in survey, construction, reconstruction, or due to settlement or movement or otherwise. The encroaching improvements shall remain undisturbed as long as the encroachment exists. This easement for encroachment shall also include an easement for the maintenance and use of the encroaching improvements. Provided, however, that at no time shall there be any encroachment onto the surface water management systems, without the written consent of the Northern Palm Beach County Water Control District.

5. There is hereby reserved to the Developer and to the Association an easement over, on, across, under, and through each

lot for lawn, landscaping, and sprinkling so that the Association may maintain front yard lawns, landscaping and a sprinkling system on each lot.

# ARTICLE VI

## MAINTENANCE OF EXTERIOR OF THE SINGLE FAMILY HOME

1. Each owner shall maintain the exterior of his single family home, including the walls (excluding the lot perimeter wall as specified herein) and fences in good condition and repair. The Association shall maintain the roof, fascia and soffit of each single family home in good condition and repair. All costs reasonably related to the Association's maintenance of the roof, fascia, and soffit shall be borne by the Association as a common expense.

2. Each owner shall maintain his own lawn, landscaping, and the sprinkler system located in the rear yard of each lot, which shall include all portions of the lot behind and including the vertical plane of the gated wall or fence between a single family home and an adjacent lot perimeter wall. The Association shall maintain the lawn, landscaping, and the sprinkler system located in the front yard (street side) of each lot.

3. Maintenance of the lot perimeter wall shall be the obligation of the owner of the lot adjacent to the lot perimeter wall. The adjacent lot owner shall have an easement over that portion of the adjacent lot on which a lot perimeter wall has been located, as specified herein, in order to maintain and to make superficial repairs to said lot perimeter wall. However, in no event, shall any person make any structural changes in the walls, including, but not limited to, change of paint color, without the express written approval of the Architectural Control Committee. Structural repairs to the lot perimeter wall shall be performed solely by the Association or its assigns. In the event the Board of Directors of the Association shall determine that the lot perimeter wall has been damaged by the adjacent lot owner, that owner shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the Board. In the event such repair is not so accomplished by said adjacent lot owner within thirty (30) days, unless extended by the Board, the Association or its designated committee shall have the right at reasonable times to enter the adjacent lot to effect such repair, and the cost thereof shall be charged to adjacent lot owner, and, if not paid in a timely manner, shall become an individual assessment upon such adjacent lot.

4. Those walls or fences which are constructed between two adjoining lots and are to be shared by the owners of said adjoining lots are to be known as and are hereby declared to be "Party Fences". Party Fences shall be the joint maintenance obligation of the owners of the lots bordering the fences. Each owner shall have the right to full use of said fence subject to

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the limitation that such use shall not infringe on the rights of the owner of the adjacent lot or in any manner impair the value of said fence. Each owner shall have the right and duty to maintain and to perform superficial repairs to that portion of a party fence which faces such owner's lot. The cost of said maintenance and superficial repairs shall be borne solely by said owner. In the event of damage or destruction of the Party Fence from any cause whatsoever, other than negligence or wilful misconduct of one of the adjacent lot owners, the owners shall, at their joint expense, repair and rebuild said fence within 30 days, unless extended by the Board. In the event it is necessary to repair or rebuild a party fence, the owners shall agree on the cost of such repairs or rebuilding, and shall agree on the person or entity to perform such repairs, provided however, all such repairs must be performed by a qualified contractor. If the owners cannot agree on the cost of such repairs or on the person or entity to perform such repairs, each owner shall choose a member of the Board to act as their arbiter. The Board members so chosen shall agree upon and choose a third Board member to act as an additional arbiter. All of the said Board members shall thereafter choose the person or entity to perform the repairs and shall assess the costs of such repairs in equal shares to the owners. Whenever any such fence or any part thereof shall be rebuilt, it shall be erected in the same manner and be of the same size and of the same or similar materials and of like quality and color and at the same location where it was initially constructed. Provided, that if such maintenance, repair or construction is brought about solely by the neglect or the wilful misconduct of one lot owner, any expense incidental thereto shall be borne solely by such wrongdoer. If the lot owner shall refuse to repair or reconstruct the fence within 30 days, unless extended by the Board of Directors of the Association, and to pay his share, all or part of such cost in the case of negligence or wilful misconduct, any other lot owner may have such fence repaired or reconstructed and shall be entitled to a lien on the lot of the lot owner so failing to pay for the amount of such defaulting owner's share of the repair or replacement. In the event repairs or reconstruction shall be necessary, all necessary entries on the adjacent lots shall not be deemed a trespass so long as the repairs and reconstruction shall be done in a workmanlike manner, and consent is hereby given to enter on the adjacent lots to effect necessary repairs and reconstruction.

5. In the event an owner of any lot shall fail to maintain the premises and the improvements thereon, as provided herein, the Association, after notice to the owner, shall have the right to enter upon any lot to correct drainage and to repair, maintain and restore the exterior of the buildings and fences and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become an individual assessment upon such lot.

ARTICLE VII

MAINTENANCE OF COMMON AREAS

The Association shall maintain the common areas as are shown on the site plan for Bear Island which shall include, but not be limited to, all roads, grounds, and landscaped areas, the landscaped portions of the Brandywine Road right-of-way and the canal right-of-way abutting the general plan of development, and the identification signage. The cost to the Association of maintaining the common areas shall be assessed equally among the lot owners, as part of the Association expenses pursuant to the provisions of this Declaration. The determination of any expenses shall not be solely within a lot owner's discretion, but shall rest on the determination of the Board of Directors of the Association.

ARTICLE VIII

ARCHITECTURAL CONTROL

1. The Architectural Control Committee (hereinafter referred to as "ACC") consisting of three (3) or more persons shall be appointed by the Board of Directors.

2. The ACC shall regulate the external appearance, use, and maintenance of the lots and of improvements thereon in such a manner so as to, in ACC's sole judgment, best preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. Nothing herein shall give the ACC authority to regulate, control or determine external appearance, use or maintenance of lots under development, to be developed, or dwellings under construction, or to be constructed or marketed or sold by the Developer, its successors or assigns.

3. General Provisions.

A. The address of the ACC shall be the principal office of the Association as designated by the Board of Directors pursuant to the By-Laws. Such address shall be the place for the submittal of plans and specifications and the place where the current Architectural Standards, if any, shall be kept.

B. The ACC shall establish time limitations for the completion of any architectural improvements for which approval is required pursuant to the Architectural Standards.

C. Plans and specifications are not approved for engineering design, and by approving such plans and specifications, neither the ACC, the members thereof, the Association, its members, the Board of Directors of the Association or Developer assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

In the event the ACC fails to approve, modify or disapprove in writing an application within thirty (30) days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted.

5. In the event plans and specifications submitted to the ACC are disapproved thereby, the party or parties making such submission may appeal in writing to the Board of Directors of the Association. The written request must be received by the Board not more than thirty (30) days following the final decision of the ACC. The Board shall have forty-five (45) days following receipt of the request for appeal to render its written decision. The Board may reverse or modify the ACC decision by a majority vote of the Directors. The failure of the Board to render a decision within the forty-five (45) day period shall be deemed a decision in favor of the appellant.

6. Conditions.

A. No clearing, grading, construction of improvements (including without limitation, pools, saunas, spas, jacuzzis, screened enclosures, buildings, mailboxes or fences), decorations, attachments, fixtures, alterations, repairs, change of paint or stain color, pressure cleaning, or other work shall be erected, constructed, affixed, placed, or altered on any lot or on any home located thereon until the proposed plans, specifications, exterior colors and/or finishes, landscaping plan, and plot plan showing the proposed location of such improvements shall have been approved by the ACC, its successors or assigns. Refusal or approval of plans, location or specifications may be based by the ACC upon any reason, including purely aesthetic conditions, which in the sole discretion of the ACC shall be deemed sufficient. One (1) copy of all plans and related data shall be furnished to the ACC for its records.

B. No fence, wall, tree, hedge or shrub planting shall be permitted on that portion of any lot which is maintained by the Association except as may be approved by the Association.

C. No clothing, laundry or wash shall be aired or dried on any portion of the lots in an area exposed to view from any other lot. Drying areas will be permitted only in locations approved by the ACC and only when protected from view by approved screening or fencing.

D. No television or other outside antenna system or facility shall be erected or maintained on any lot to which cable television service is then currently available except with the specific consent of the ACC, which consent may be unreasonably withheld.

E. No owner shall be permitted by the ACC to construct or install any building, structure, improvement, machinery, fixture, or equipment within the landscape easement areas.

F. Unless specifically excepted by the ACC, all improvements for which an approval of the ACC is required under this Declaration shall be completed within twelve (12) months from the date of commencement of said improvements.

# ARTICLE IX

## ASSOCIATION EXPENSES, METHOD OF DETERMINING ASSESSMENTS, AND MAINTENANCE OF EXTERIOR AREAS

1. The costs and expenses incurred by the Association with regard to the ownership, operation, maintenance and repair of the common area shall be Association expenses. The costs and expenses assessed by the Association against the lot owners or the Association shall be collected from the lot owners as an Association expense. Common Area expenses and utility expenses shall be payable to the Association on an equal basis by all lot owners.

2. To defray the Association expenses, there is hereby imposed upon each lot and its owner, the affirmative covenant and obligation to pay to the Association, and upon the Association the obligation to assess, collect and expend, the Association's expenses and those expenses hereinafter set forth.

A. Taxes. All taxes levied or assessed upon the common areas, by any and all taxing authorities, including all taxes, charges and assessments, imposition and liens for public improvements, special charges and assessments; and, in general, all taxes on personal property and improvements which are now and which hereinafter may be placed in the common area, including any interest penalties and other charges which may accrue on such taxes.

B. Utility Charges. All charges levied for utility services to the common areas, whether supplied by a private or public firm including, without limitation, all charges for water, gas, electricity, telephone, sewer and any other type of utility or service charge.

C. Insurance. The premiums on any policy or policies of insurance required under Article X hereof, together with the costs of such other policies of insurance, as the Board, with the consent of the unit owners at any meeting thereof, shall determine to be in the best interest of the Association, provided however, that fire and extended coverage on common areas shall be maintained on a current replacement cost basis in an amount not less than 100% of the insurable value based on a current replacement cost.

D. Insurance Trustee. All expenses necessary to retain and continue to retain a lending institution in Palm Beach County, Florida, having a trust department to act as "Insurance Trustee". The functions of the Insurance Trustee shall include

holding all original policies purchased by the Association, being named as loss payee, distributing proceeds of such insurance, assisting in the reconstruction of improvements from insurance premiums and performing such other functions as shall be agreed upon.

E. Fidelity Coverage. The cost to the Association of purchasing adequate fidelity insurance or bonds to protect against dishonest acts on the part of officers, directors, trustees, agents and employees of the Association and all other persons who handle or are responsible for handling of the Association. Each fidelity insurance shall meet the following requirements.

(i) All such fidelity insurance or bonds shall name the Association as an obligee; and

(ii) Such fidelity insurance or bonds shall be written in the amount equal to at least 150% of three months operating expenses of the Association, and the amount in reserve as of the end of each fiscal year of the Association; and

(iii) Such fidelity insurance or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or a similar expression; and

(iv) Such insurance or bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days prior written notice of the servicer or the insured

F. Reconstruction of buildings and improvements. All sums necessary to repair, replace, construct or reconstruct ("repair") any buildings or improvements located in the common areas damaged by any casualty to the extent insurance proceeds are insufficient for repair. Any difference between the amount of insurance proceeds received on behalf of the Association with respect to repair and the actual cost of the repair ("repair sums") shall be an Association expense for which the Association shall levy a special assessment against all owners, if any, to obtain the funds necessary to pay for such repair sums within ninety (90) days from the date such damage was incurred. The Association shall establish an account with an Institutional Mortgagee located in Palm Beach County, Florida, and deposit into such account all repair sums and all insurance proceeds collected by the "Insurance Trustee", if any, so that the amounts on deposit will equal the costs of repair. The Association shall proceed so that repairs shall be completed within one (1) year from the date of damage, if possible.

G. Maintenance, repair and replacement. All expenses necessary to maintain the lawns, landscaping and sprinkler systems located in the front yard of each lot, the common areas, and the public road rights-of-way abutting the common areas shall

be common expenses, including such expenses as irrigating, grass cutting, trimming, fertilizing, and the like, in a manner consistent with the covenants and restrictions contained herein. In addition, all costs reasonably related to the Association's maintenance of the roof, fascia, and soffit of a single family home shall be common expenses.

H. Optional expenses. The costs of administration for the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association under the Declaration, notwithstanding the fact that some of these services may be expanded in providing services to collecting sums owed by a particular lot. In addition, the Association may retain a managing company or contractors to assist in the operation of Association and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be part of the Association's expenses.

I. Indemnification. The costs to the Association to indemnify and save harmless Developer from and against any and all claims, suits, actions, damages and/or causes of action arising from any personal injury, loss of life and/or damage to property in or about the common areas, if any, from and against all costs, counsel fees, expenses, liabilities occurring in and about such claim, the investigation thereof, or the defense at any level of any action or proceeding brought which may enter therein. Included in the foregoing provisions for indemnification are any expenses the Developer may be compelled to incur and bring suit for the purposes of enforcing rights thereunder, or for the purpose of compelling this specific enforcement of the provisions, conditions, covenants and restrictions, contained in the Declaration to be kept and performed by the Association and/or the owners, including the payment of Association expenses.

Further, the cost of the Association indemnifying its officers and members of the Board for all costs and expenses whatsoever incurred in pursuance of their duties, obligations and functions hereunder. Nothing in the provisions of this subparagraph shall require any institutional mortgagee to pay the Association expenses or portion thereof attributable to costs of the Association to indemnify and save harmless Developer in accordance with such paragraph. Any such Association expense shall be reallocated amongst the owners other than the institutional mortgagees.

J. Reserve funds. The costs to establish an adequate reserve fund for replacement and/or capital refurbishment of the common areas and the payment of other common expenses (the "capital contributions") in the amounts determined proper and sufficient by the Board, if any. Each owner acknowledges, understands and consents that capital contributions are the exclusive property of the Association as a whole, and that no

owner shall have any interest, claim or right to any such capital contributions or funds composed of the same. The Association shall be responsible for maintaining the capital contribution in a separate reserve account and to use such funds only for capital costs and expenses as aforesaid.

K. Special assessments. Any special assessment that shall be levied to defray (a) extraordinary items of Association expense other than those contemplated by capital contribution; and (b) such other Association expenses determined by the Board to be payable by the Association and which are not inconsistent with the terms of this Declaration, the Articles of Incorporation or the By-Laws.

L. First mortgagees. First mortgagees of lots may, jointly or singularly, pay taxes or other charges which are in default, and which may or have become a charge or encumbrance against the common areas, and may pay overdue premiums on hazard insurance policies or new hazard coverage upon lapse of a policy with respect to the common areas, with a right of immediate reimbursement from the Association.

M. Villages of Palm Beach Lakes Property Owners Association, Inc. All expenses of the lot owners or the Association due and payable to the Property Owners Association for the maintenance and repair of the common areas of the Villages of Palm Beach Lakes. Said expenses to be assessed to the lot owners, and to be paid through the Association in accordance with the Villages of Palm Beach Lakes Declaration of Covenants and Restrictions.

3. Method of Determining Assessments. The "assessments" (as hereinafter defined) for Association expenses shall be levied and paid for as follows:

A. It is hereby declared and all owners and the Association agree that the Association expenses shall be paid by the Association out of funds assessed and collected from and paid by all owners, provided, however, that the Developer shall not be required to contribute any amounts for Association expenses on units owned by the Developer until no remaining units are being sold in the ordinary course of business. Each individual lot owner other than Developer shall be required to pay the Association expenses.

B. As provided in the By-Laws of the Association, the Board shall prepare an estimated annual budget which shall reflect the estimated Association expenses. Thereupon the Board shall allocate an equal share of the Association expenses to all lots.

For the purpose of determining an equal share of Association expenses the number of lots in Bear Island shall include only such lots as have been conveyed to purchasers. The total number of lots in Bear Island conveyed to purchasers shall

be used as the denominator and the number "1" shall be used as the numerator for the calculation of equal shares of Association expenses. For example, if all of the lots in Bear Island have been conveyed to purchasers, the total number of lots shall be two hundred twenty seven (227) and therefore each lot shall be liable for 1/227 of the Association expenses.

The assessments may be adjusted as necessary to allow for any change in the amount of Association expenses. The adjustment may be made by dividing the total anticipated Association expenses for the remainder of the calendar year by the total number of lots in Bear Island.

D. The assessments shall be payable no less frequently than quarter-annually in advance on the first day of January, April, July and October, or otherwise as the Board may determine.

#### ARTICLE X

#### INSURANCE

1. Casualty. The Association shall maintain a master policy or policies to insure all Association property in the general plan of development against casualty loss. This coverage shall insure 100% of the current replacement cost of the common area improvements, personal property, and supplies. It shall be in such amounts so that the insured will not be a co-insurer except under deductible clauses required to obtain coverages at a reasonable cost.

A. The coverages will EXCLUDE the following:

- (i) Land, foundations, excavations or other items that are usually excluded from insurance coverage; and
- (ii) Any increase in the value of Association property as a result of special improvements, alterations and betterments.

B. The coverage will INCLUDE the following:

- (i) Loss or damage by fire or other hazards covered by a standard extended coverage endorsement;
- (ii) All other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement;
- (iii) Agreed Amount and Inflation Guard Endorsement, when it can be obtained;
- (iv) Demolition Cost Endorsements, Contingent Liability from Operation of Building Laws Endorsement, and Increased Cost of Construction Endorsement;

(v) Steam Boiler Endorsement, if applicable, providing at least \$50,000.00 coverage for each accident at each location.

C. When appropriate and possible, the policies shall waive the insurer's right to:

(i) Subrogation against the Association and against the lot owners, individually and as a group;

(ii) The prorata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

(iii) Avoid liability for a loss that is caused by an act of the Board, or by a member of the Board or by one or more lot owners.

D. In addition, the policy shall provide that:

(i) Any Insurance Trust Agreement will be recognized;

(ii) The policy shall be primary, even if the Association has other insurance that covers the same loss; and

(iii) The named insured shall be the Association. The "loss payable" clause should show said Association or the designated insurance trustee.

## 2. Reconstruction and Repair after Casualty.

A. Under ordinary circumstances Association property which is damaged by casualty shall be reconstructed and repaired. If a dispute arises as to whether the Association property should be repaired or reconstructed, the Board of Directors shall make the determination to repair or reconstruct. All owners shall be bound by this determination.

B. Although it is impossible to anticipate all problems which may arise from a casualty the intent is to try to assure that the overall quality development plan of Bear Island is maintained by requiring damaged Association property to be rebuilt or repaired and that unsightly and dangerous conditions are remedied as soon as possible. Any reconstruction and repair must be substantially in accordance with the plans and specifications for such property as originally constructed, or if none, then according to plans and specifications approved by the Board. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during that work or upon completion of the work the funds available for payment of the costs are insufficient, assessments shall be made by the Association against all lot owners in sufficient amounts to provide funds for the payment of those costs.

3. Public Liability Coverage. The Association shall obtain comprehensive general liability coverage insuring the Association against any and all claims and demands made by any person or persons for injuries received in connection with the operation and maintenance of the Common Areas and improvements located thereon, or for any other risk insured against by such policies which the Association, in its sole discretion, determines to insure against. Each policy purchased by the Association shall have limits of not less than \$1,000,000.00 covering all claims for personal injury and property damage arising out of a single occurrence. The liability coverage shall include protection against liability for non-owned and hired automobiles, and liability for hazards related to usage. In addition, the coverage shall include protection against liability that results from actions related to employment contracts in which the Association is a party. All such policies will name the Association (and the Developer until the Transfer Date), as their respective interests may appear, as insured parties under such policy or policies. The original of each policy shall be held by the Board or in the office of the "Insurance Trustee" (as hereinafter defined).

4. Fidelity Bond Coverage. The Association shall obtain Fidelity Bonds covering officers, directors, employees and other persons who handle or are responsible for handling Association funds. Such bonds shall be in an amount equal to at least one hundred fifty percent (150%) of three months operating expenses, and the amount in reserve as of the end of each fiscal year of the Association and shall contain waivers of any defense based upon the exclusion of persons serving without compensation.

5. Flood Insurance. If any part of the common areas are in a special flood hazard area, as defined by the Federal Emergency Management Agency, the Association shall insure same. The coverage shall be 100% of the current replacement cost of any common area improvements or buildings and other insurable common property, or the maximum coverage available for such improvements, buildings, or property under the National Flood Insurance Program.

6. All insurance shall be issued by a company authorized to do business in the State of Florida.

7. Premiums on policies purchased by the Association shall be paid as an Association Expense. The Association will furnish evidence of premium payment to each mortgagee upon request.

8. All insurance policies purchased by the Association shall be for the benefit of the Association and shall provide that all proceeds covering property losses shall be paid to the Association as trustee or to such institution in Florida with trust powers as may be designated as Insurance Trustee by the Board.

9. This Article is additionally for the benefit of first mortgagees of homes and may not be amended without the consent of all such mortgagees.

10. All insurance policies purchased by the Association shall require the insurer to notify in writing the Association or the designated Insurance Trustee and each first mortgagee named in any mortgage clause at least 10 days before it cancels or substantially changes the coverage.

11. The Association is irrevocably appointed agent to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

#### ARTICLE XI

#### ESTABLISHMENT AND ENFORCEMENT OF LIENS

1. All assessments for Association Expenses, including special assessments for same, and all installments thereof, (collectively, the "assessments") with interest thereon and costs of collection, including reasonable attorneys' fees at trial level, appellate level, or otherwise, are hereby declared to be a charge and a continuing lien upon the lot against which such assessments are made. Each assessment against a lot, together with such interest thereon at the highest rate allowed by law and costs of collection thereof, including attorneys' fees, shall be the personal obligation of the person, persons or entity owning the lot assessed. Said lien shall be effective only from and after the time of recordation amongst the Public Records of Palm Beach County, Florida, of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien and costs and fees accrued, the party making payment shall be entitled to a recordable Satisfaction of Lien. When any first mortgagee obtains title to a lot as a result of a foreclosure of mortgage or deed (or assignment) is given in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of assessments pertaining to such lot or chargeable to the former owner which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu of foreclosure, unless such share is secured by a Claim of Lien for assessments and recorded prior to the recordation of a mortgage. Such unpaid share of assessments for which a Claim of Lien has not been recorded prior to the recording of the foreclosed mortgage or deed given in lieu of foreclosure shall be deemed to be assessments collectable from all lots, as the necessity may arise in the discretion of the Board.

2. In the event any owner shall fail to pay assessments or any installment thereof charged to his lot within (15) days after the same becomes due, the Association, through its Board, shall

have all of the following remedies to the extent permitted by law.

A. To accelerate the entire amount of any assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

B. To advance on behalf of said owner funds to accomplish the needs of the Association and the amount or amounts of money so advanced, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.

C. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property.

D. To file an action at law to collect said assessments, plus interest at the highest rate allowable by law plus court costs, without waiving any lien rights and/or rights of foreclosure by the Association.

#### ARTICLE XII

##### ENFORCEMENT OF DECLARATION

The enforcement of this Declaration may be by proceeding at law for damages or in equity to compel compliance with its terms or to prevent violation or breach of any of the covenants or terms herein. The Developer, the Association, or any individual may, but shall not be required to, seek enforcement of the Declaration. Any individual who seeks enforcement of the Declaration shall by his actions be deemed to have indemnified the Developer and the Association from all liabilities resulting from his actions. Should the party seeking enforcement be the prevailing party in any action, then the person against whom enforcement has been sought shall pay all costs and reasonable attorneys' fees at all trial and appellate levels to the prevailing party.

#### ARTICLE XIII

##### AMENDMENTS

1. Until the closing of the first conveyance of a lot by Developer to an owner, other than Developer, (Amendment Date), any amendment may be made by Developer with consent of any

mortgagee who has advanced funds for construction or who is under contract to advance construction funds, if any.

2. After the Amendment Date, this Declaration may be amended only by consent of fifty-one percent (51%) of all lot owners together with the consent of the institutional mortgagee with the highest aggregate mortgage indebtedness on the lots. The aforementioned consent shall be in writing and affixed to the Amendment to this Declaration.

3. Notwithstanding the foregoing, no amendment to Articles IX or X, and no other amendment shall be effective which shall, in a material fashion impair or prejudice the rights or priorities of any owner, the Developer, or any institutional mortgagee under this Declaration without the specific written approval of the owner, the Developer or institutional mortgagee affected thereby. In addition, any amendment which would affect the surface water management system, including the water management portions of the common areas, must have the prior approval of the South Florida Water Management District.

4. Prior to the transfer date, the Developer may amend this Declaration in order to correct a scrivener's error or other defect or omission without the consent of the owners or the Board; provided that such amendment is reasonable and does not adversely affect in a material manner an owner's property rights. This amendment shall be signed by the Developer alone and a copy of the amendment shall be furnished to each owner, the Association and all institutional mortgagees as soon after recording thereof amongst the Public Records of Palm Beach County, Florida, as is practicable.

5. An amendment to the Declaration shall become effective upon the recordation amongst the Public Records of Palm Beach County, Florida.

#### ARTICLE XIV

#### CONVEYANCES

In order to assure a community of congenial residents and thus protect the value of the homes in Bear Island community, the sale or lease of homes shall be subject to the following provisions:

1. The home owner shall notify the Association in writing of his intention to sell or lease his home and furnish with such notification a copy of the contract for sale or lease, whichever is applicable.

2. Any and all lease agreements between an owner and a lessee of such owner shall be in writing, shall provide for a term of not less than four (4) months, and must provide that the lessee shall be subject in all respects to the terms and

provisions of this Declaration and that any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. The lease agreement shall also state who will be responsible for the assessments as stated above, and it shall be the obligation of all home owners to supply the Board with a copy of said written agreement prior to the lessee occupying the premises. Unless provided to the contrary in a lease agreement, a home owner, by leasing his home, automatically delegates his right of use and enjoyment of the common areas and facilities to his lessee; and in so doing, said owner relinquishes said rights during the term of the lease agreement.

3. Upon receipt of a copy of the contract for sale or lease, the Association shall within ten (10) business days, issue a Certificate indicating the Association's approval of the transaction. In the event of a sale it shall then be the responsibility of the purchaser to furnish the Association with a recorded copy of the deed of conveyance indicating the owner's mailing address for all future maintenance bills and other correspondence from the Association. Provided, however, prior to the issuance by the Association of a Certificate indicating the Association's approval of the transaction, the purchaser or lessee shall be required to execute a copy of the Rules and Regulations of Bear Island acknowledging that he takes title subject to and agrees to abide by the Rules and Regulations. The Association shall then retain one signed copy in the Association's records, and furnish one copy to the purchaser or lessee.

4. Except as provided in paragraph 5 below, it is not the intention of this Article to grant to the Association a right of approval or disapproval of purchasers or lessees. It is, however, the intent of this paragraph to impose an affirmative duty on the owners to keep the Association fully advised of any changes in occupancy or ownership for the purposes of facilitating the management of the Association's membership records. As this Article is a portion of the Declaration which run with the land, any transaction which is conducted without compliance with this Article may be voidable by the Association.

5. Notwithstanding the provisions of paragraph 3 above, in the event that a home owner is delinquent in paying any assessment, or the owner or his buyer, family, guests, agents, licensees or invitees are not in compliance with any provisions of the Declaration, the Association has the right to disapprove of any sale; and in the case of a lease, the right to disapprove of and to void any lease at any time prior to or during the leasehold tenancy until any delinquent assessment is paid and/or until any violation of any provision of the Declaration is corrected.

ARTICLE XV

TERMINATION

1. This Declaration may be terminated upon the affirmative written consent of eighty percent (80%) of all lot owners, and upon the affirmative written consent of all institutional mortgagees holding mortgages encumbering lots.

2. If this Declaration is terminated in accordance herewith, it is hereby declared by the Developer, and each and every owner of a lot by acquiring title to his lot covenants and agrees, that the termination documents shall require:

A. That all homes shall continue to be used solely as single family residences.

B. All common areas shall be owned and held in equal shares by the lot owners as tenants in common, and each lot owner shall remain obligated to pay his prorata share of expenses to continually maintain the common areas.

3. The lot owners and their grantees, successors, and assigns by acquiring title to a lot covenant and agree that no termination of this Declaration shall be made for a period of twenty-five (25) years from the date of recordation of this Declaration. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the subject property and inure to the benefit of Developer, the Association, the owners, institutional mortgagees and their respective legal representatives, heirs, successors, and assigns for said period. After this period, the Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such twenty-five (25) year term or any such ten (10) year extension there is recorded among the Public Records of Palm Beach County, Florida, an instrument signed by at least eighty percent (80%) of all institutional mortgagees holding mortgages encumbering the lots agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of twenty-five (25) years or the ten (10) year extension thereof during which the termination instrument is recorded.

4. If the Association is terminated, the property consisting of the surface water management system operated and maintained as part of the common areas shall be conveyed to an appropriate agency of local government, and if not accepted thereby, then it must be conveyed to a similar non-profit corporation.

ARTICLE XVI

VILLAGES OF PALM BEACH LAKES

PROPERTY OWNERS ASSOCIATION, INC.

Each owner in Bear Island is a mandatory member of the Villages of Palm Beach Lakes Property Owners Association, Inc. The Homeowners Association is obligated to collect and to pay to the Villages POA such assessments for expenses as are billed to each lot owner. Each lot owner agrees to accept membership in said Villages POA, and further agrees to be bound by all of the terms, provisions and conditions contained in the Declaration of Covenants and Restrictions, Articles of Incorporation, and the By-Laws of the Villages POA, including, without limitation, the duty to pay the assessments of Villages POA through the Homeowners Association.

ARTICLE XVII

MISCELLANEOUS

1. The failure of the developer, the Association, or any owner to object to an owner's or other person's failure to comply with the Covenants and Restrictions contained herein shall in no event be deemed a waiver of any right to object to same and to seek compliance therewith in accordance with the provisions herein.

2. Article and paragraph captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms and provisions of this Declaration.

3. Whenever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

4. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

5. The Association may not convey, encumber, abandon, partition or subdivide any of the common areas without the approval of all Institutional Mortgagees. All first mortgagees, upon request, shall be entitled to written notification from the Association of (a) any default by a individual lot owner of any obligation hereunder not cured within sixty (60) days, (b) any condemnation loss or any casualty loss which affects a material

portion of the plan of development or any lot encumbered by such mortgages, and (c) any cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

6. The Association is required to make available to owners and to lenders, holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Articles of Incorporation, By-Laws, Rules and Regulations and other such documents governing Bear Island or the Association, as well as the books, records, and financial statements of the Association. "Available" shall be defined as obtainable for inspection, upon written request after reasonable notice, during normal business hours or under such other reasonable circumstances.

7. Any holder of a first mortgage shall be entitled, upon written request after reasonable notice, to a financial statement of the Association for the immediately preceding fiscal year.

8. Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and the lot number and address, such mortgage holder, insurer, or guarantor will be entitled to timely notice of any proposed action that requires the consent of a specified percentage of mortgage holders.

9. Notwithstanding any provision to the contrary set forth above, unless at least two-thirds of the first mortgagees (based on one vote for each first mortgage owned) or two-thirds of the owners of the lots (other than the Developer) have given their written approval, the Association is not entitled to change the method of determining the assessments or other charges that may be levied against a lot owner; the Association may not, by act or omission, change, waive, or abandon any scheme of regulations or their enforcement pertaining to architectural design or the exterior appearance of lots, or the care and maintenance of the common areas; nor may the Association use hazard insurance proceeds for losses to the common areas other than for the repair, replacement, or reconstruction of the common areas.

10. Each lot owner will be subject to the taxing authority of the Northern Palm Beach County Water Control District. For a period of four years, commencing with real estate tax year 1987, and ending with real estate tax year 1991, Perini Land & Development Company has agreed to refund to each lot owner any part of said Water Control District's annual maintenance tax which is in excess of \$400.00 per acre or portion thereof. In order to receive such a refund, the lot owner must present a copy of his paid tax bill to Perini Land & Development Company on or before June 30th of the following real estate tax year. Failure to present a copy of the paid tax bill by said date will make the lot owner ineligible for such a refund. Perini Land & Development Company has no duty to notify the lot owner of this refund privilege.

ORB 5540 Pg. 757

11. The common area street lighting will be obtained by the Developer from Florida Power & Light Company. The Developer shall secure, by a letter of credit or other acceptable financial assurance, the street lighting for a period of not more than one (1) year after the Transfer Date. The Association shall be responsible and liable for any financial assurances required by Florida Power & Light Company at the expiration of said period.

IN WITNESS WHEREOF, the Declaration of Covenants and Restrictions of Bear Island has been signed by the Developer and the Association on the day and year first above set forth. The Developer and the Association have caused these presents to be executed in their names and their corporate seals to be hereunto affixed by their proper officers thereunto duly authorized.

BURG & DIVOSTA CORPORATION

By: Clifford F. Burg  
Clifford F. Burg, President

BEAR ISLAND HOMEOWNERS ASSOCIATION, INC.

By: Charles H. Hathaway  
Charles H. Hathaway, President

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY, that on this day before me, an officer duly qualified to take acknowledgments, personally appeared CLIFFORD F. BURG, President of BURG & DIVOSTA CORPORATION, a Florida corporation, to me known to be the officer described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State aforesaid this 23 day of July, 1987.

William E. Shuman  
Notary Public

My Commission expires 9/1/87

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY, that on this day before me, an officer duly qualified to take acknowledgments, personally appeared CHARLES H. HATHAWAY, President of BEAR ISLAND HOMEOWNERS ASSOCIATION, INC., a Florida corporation, to me known to be the officer described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State aforesaid this 23 day of July, 1987.

William E. Shuman  
Notary Public

My Commission expires 9/1/87

Burg &  
Divosta

Please return to:  
St. John, Core & Lemme, P.A.  
1601 Forum Place, Suite 701  
West Palm Beach, FL 33401  
Attention: Tyler Powell, Esq.  
**WILL CALL BOX #110**

CFN 20090341612  
OR BK 23473 PG 0162  
RECORDED 10/01/2009 12:21:49  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0162 - 196; (35pgs)

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## **CERTIFICATE OF AMENDMENT AND RESTATEMENT OF THE COVENANTS AND RESTRICTIONS FOR BEAR ISLAND**

**I HEREBY CERTIFY** that the Amended and Restated Declaration of Covenants and Restrictions for Bear Island (the "Amendment and Restatement") dated as of July 6, 2009, attached as Exhibit "A" to this certificate was duly adopted as an Amendment and Restatement of the Declaration of Covenants and Restrictions for Bear Island (the "Original Declaration"), dated July 23, 1987, which is recorded in Official Records Book 5540, at Page 731, the Public Records of Palm Beach County, Florida, as amended by an Amendment to the Declaration, dated June 4, 1997 (the "First Amendment"), which is recorded in Official Records Book 9826, at Page 1060, Public Records of Palm Beach County, and as further amended by an Amendment to the Declaration, dated June 19, 1999 (the "Second Amendment"), recorded in Official Records Book 11189, at Page 1375, Public Records of Palm Beach County, Florida.

Section 2 of Article XIII of the Original Declaration stated:

"2. After the Amendment Date, this Declaration may be amended only by consent of fifty-one percent (51%) of all lot owners together with the consent of the institutional mortgagee with the highest aggregate mortgage indebtedness on the lots. The aforementioned consent shall be in writing and affixed to the Amendment to this Declaration."

Because of the turmoil in the residential lending industry the Board of Directors of Bear Island Homeowners Association, Inc. (the "Association") has found it impossible to locate with certainty "the institutional mortgagee with the highest aggregate mortgage indebtedness on the lots." Upon the advice of legal counsel, on July 6, 2009, letters containing copies of the proposed Amendment and Restatement and requesting their written consent as required by the Original Declaration were mailed to the following institutional mortgagees using the names and addresses on the latest mortgages recorded by each mortgagee and requesting their consent. The number of loans and the aggregate mortgagee indebtedness for each lender is also shown below:

Wachovia Bank, N. A.  
301 South College Street  
Charlotte, VA 28288  
(13 loans) \$1,931,897.00

Fidelity Federal Bank & Trust  
205 Datura Street  
West Palm Beach, FL 33401  
(10 loans) \$1,293,400.00

Washington Mutual Bank, F. A.  
400 East Main Street  
Stockton, CA 95290  
(11 loans) \$1,545,440.00

Bank of America, N. A.  
100 North Trynor Street  
Charlotte, VA 28255  
(7 loans) \$1,215,307.53

Suntrust Mortgage, Inc.  
901 Semmes Avenue  
Richmond, VA  
(9 loans) \$1,372,849.00

First Federal of the Palm Beaches  
215 South Olive Avenue  
West Palm Beach, FL 33401  
(13 loans) \$989,000.00

As of the date of this Certificate, no responses have been received by the Association, which has received an opinion from its legal counsel that there has been substantial compliance with the requirements of the Original Declaration and that the Amendment and Restatement is valid and enforceable.

DATED this 21<sup>st</sup> day of September, 2009.

WITNESSES:

Sign: [Signature]

Print: HOWARD MARCINIAK

Sign: [Signature]

Print: GEORGE P. ROBERTS, JR

Sign: [Signature]

Print: Howard Berman, President

Sign: [Signature]

Print: Stephen L. Seftenberg, Secretary

STATE OF FLORIDA                    )  
COUNTY OF PALM BEACH         )

BEFORE ME personally appeared HOWARD BERMAN, President, and STEPHEN L. SEFTENBERG, Secretary of Bear Island Homeowners Association, Inc., who are personally known to me or who have produced identification satisfactory to me and who did take an oath, to be the individuals who executed the foregoing instrument and acknowledged to and before me that they executed such instrument as President and Secretary of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS MY HAND AND OFFICIAL SEAL this 21<sup>st</sup> day of September, 2009.

NOTARY PUBLIC

Sign: Sarah Lauder Seftenberg

Print: \_\_\_\_\_

State of Florida at Large

My Commission expires: \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA



Sarah Lauder Seftenberg

Commission # DD555034

My Comm. Expires: 07/06/2010

1 Please return to:  
2 St. John, Core & Lemme, PA  
3 1601 Forum Place, Suite 701  
4 West Palm Beach, FL 33401-8106  
5 Attention: Tyler Powell, Esq.  
6  
7  
8  
9

EXHIBIT "A"

10  
11 AMENDED AND RESTATED DECLARATION  
12 OF COVENANTS AND RESTRICTIONS FOR BEAR ISLAND  
13

14 THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND  
15 RESTRICTIONS is made as of the 6th day of July, 2009, by BEAR ISLAND HOMEOWNERS  
16 ASSOCIATION, INC., a Florida non-profit corporation (the "Association"), as transferee from  
17 BURG & DIVOSTA CORPORATION, a Florida corporation (the "Developer").  
18

19 W I T N E S S E T H  
20

21 WHEREAS, the Developer and the Association executed that certain DECLARATION OF  
22 COVENANTS AND RESTRICTIONS FOR BEAR ISLAND (the "Original Declaration") dated  
23 July 23, 1987, recorded in Official Records Book 5540, at Page 731 of the Public Records of Palm  
24 Beach County, Florida; and  
25

26 WHEREAS, the Developer conveyed legal title to the Common Areas to the Association,  
27 thereby relinquishing the right to appoint a majority of the Directors to the Board of Directors of  
28 the Association by an instrument executed by the Developer dated March 1, 1989 and recorded in  
29 the Official Records Book 5993, at Page 1539 of the Public Records of Palm Beach County,  
30 Florida; and  
31

32 WHEREAS, the Association executed an Amendment (the "First Amendment") to the  
33 Original Declaration dated June 4, 1997, recorded in the Official Records Book 9826, at Page 1060,  
34 Public Records of Palm Beach County, Florida; and  
35

36 WHEREAS, the Association executed a Second Amendment to the Original Declaration  
37 dated June 19, 1999, recorded in the Official Records Book 11189, at Page 1375, Public Records  
38 of Palm Beach County, Florida; and  
39

40 WHEREAS, the Association desires to continue to provide for the preservation and  
41 enhancement of the property values, amenities, and opportunities in said community, and for the  
42 maintenance of the properties and improvements thereon, and to this end desires to continue to

1 subject the real property described in Exhibit "A" attached to the Original Declaration to the  
2 covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which  
3 is and are for the benefit of said property and each owner thereof; and  
4

5 WHEREAS, the Developer deemed it desirable, for the efficient preservation of the values  
6 and amenities in said community, to create an entity to which should be delegated and assigned the  
7 powers of owning, maintaining, and administering the community properties and facilities;  
8 administering and enforcing the covenants and restrictions; collecting and disbursing the  
9 assessments and charges hereinafter created; and promoting the convenience, safety, and welfare  
10 of the residents; and  
11

12 WHEREAS, on June 17, 1987, the Developer incorporated the Association under the laws  
13 of the State of Florida, as a non-profit corporation for the purposes of exercising the functions  
14 aforesaid; and  
15

16 WHEREAS, the Association wishes to further amend and restate the Original Declaration,  
17 as amended by the First and Second Amendments.  
18

19 NOW THEREFORE, the Association hereby declares that the real property described in  
20 Exhibit A is and shall continue to be held, transferred, sold, conveyed, leased and occupied subject  
21 to the terms, conditions, covenants, provisions, restrictions, easements, servitudes, and liens  
22 (sometimes referred to as "covenants and restrictions") hereinafter set forth, as amended from time  
23 to time, which covenants and restrictions shall be binding on all persons, their heirs, successors,  
24 and assigns having any right, title or interest in or to the real property, and shall inure to the benefit  
25 of each lot owner.  
26

27 ARTICLE I  
28 DEFINITIONS  
29

30 1. "ACC" means the Architectural Control Committee.  
31

32 2. "Articles" means the Articles of Incorporation of the Association.  
33

34 3. "Association" means and refers to Bear Island Homeowners Association, Inc., its  
35 successors and assigns.  
36

37 4. "Association Expenses" mean the expenses of the Association payable by the  
38 Owners to the Association as set forth in this Declaration.  
39

---

1           5.     "Association Property" means all real and personal property transferred to the  
2 Association for the benefit of all the Members.  
3

4           6.     "Back Yard" means and includes all portions of a Lot behind and including the  
5 vertical plane of the gated fence as originally sited between a single family home and an adjacent  
6 Lot Perimeter Wall or Fence, Party Wall or Privacy Wall, as the case may be.  
7

8           7.     "Bear Island" is the name given to a planned residential community of single family  
9 homes constructed by Developer in the City of West Palm Beach, Florida. The Plat of Bear Island  
10 dated July 13, 1987 is recorded in Plat Book 57 Pages 55-59, inclusive, of the Public Records of  
11 Palm Beach County, Florida.  
12

13          8.     "Board" means the Board of Directors of the Association.  
14

15          9.     "By Laws" mean the By Laws of the Association as amended from time to time.  
16

17          11.    "Common Areas" mean those areas of real property shown on the Plat of Bear  
18 Island as Common Areas, together with all improvements thereto, which are devoted to the  
19 common use and enjoyment of all the Members of the Association. The term "Common Area"  
20 may sometimes be used interchangeably with the term "Association Property".  
21

22          12.    "Declaration" means the covenants, conditions, restrictions, easements, and all other  
23 terms set forth in this document, and as may be amended from time to time.  
24

25          13.    "Developer" means BURG & DIVOSTA CORPORATION, a Florida corporation,  
26 its successors and assigns.  
27

28          14.    "Front Yard" means and includes all portions of a lot in front of the vertical plane  
29 of the gated fence as originally sited between a single family home and an adjacent Lot Perimeter  
30 Wall or Fence, Party Wall or Privacy Wall, as the case may be.  
31

32          15.    "General Plan of Development" means the Plat of Bear Island, as approved by the  
33 appropriate governmental agencies, which represents the development plan and uses of the real  
34 property.  
35

36          16.    "Governing Documents" mean in the aggregate this Declaration, the Articles, the  
37 By-Laws, the Rules and Regulations of the Association, resolutions of general application adopted  
38 from time to time by the Board, and all of the instruments and documents referred to herein and  
39 executed in connection with the General Plan of Development, including without limitation, the  
40 Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, and the Articles of

1 Incorporation and By-Laws of the Villages of Palm Beach Lakes Property Owners Association, Inc,  
2 all as amended from time to time.

3

4 17. "Institutional Mortgagee" means any lending institution having a first lien on a  
5 "Lot" (hereinafter defined), including any of the following institutions: an insurance company or  
6 subsidiary thereof, a federal or state savings and loan association, a federal or state building and  
7 loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage  
8 Corporation, a federal or state banking association, the Palm Beach County Housing Authority or  
9 similar entity, a real estate investment trust, or any mortgage banking company authorized to do  
10 business in the State of Florida.

11

12 18. "Lot" means a parcel of real property (as described on the Plat of Bear Island) on  
13 which a zero lot line, single family home (also referred to as "Home") is located. Ownership of a  
14 Lot includes a membership interest in the Association and in the Villages POA.

15

16 19. "Lot Perimeter Wall or Lot Perimeter Fence means (a) with respect to a Lot adjacent  
17 to a Common Area of Bear Island, means (1) the exterior side of the single family home on a Lot  
18 which is located approximately two (2) feet in from the lot line and (2) the wall or fence, which  
19 may or may not be connected to the side of the home, which is constructed on the lot side of the  
20 lot line dividing such lot and a Common Area of Bear Island; and (b) with respect to a lot adjacent  
21 to a Bear Lakes Country Club golf course, the fence constructed more or less on the lot line  
22 dividing the Lot and the Golf Course.

23

24 20. "Occupant" means a person legally occupying a single family home in Bear Island,  
25 whether as Owner, lessee, or guest of the Owner or lessee of the Lot.

26

27 21. "Owner" means the fee simple title holder of a Lot, whether one or more persons  
28 or entities.

29

30 22. "Party Wall or Party Fence" means a wall or fence constructed between adjoining  
31 Lots with the center of the wall or fence more or less along the lot line dividing the Lots.

32

33 23. "Privacy Wall" means a wall constructed between two adjoining Lots connected to  
34 a single family home and extending to a Party Wall or Lot Perimeter Wall or Fence, lying entirely  
35 within the property of an Owner and located approximately two (2) feet inside the Owner's Lot  
36 line.

37

38 24. "Property" means all of the real and personal property subject to this Declaration,  
39 as amended from time to time. The real property is described in Exhibit A, attached hereto and  
40 made a part hereof.

25. "Property Manager" means one or more independent contractors or employees of the Association providing bookkeeping and other management services for the Association.

26. "Rules and Regulations" mean the rules, regulations, and policies as may be adopted by the Board from time to time by resolution duly made and carried.

27. "Single family" means (a) one person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or (b) not more than two persons living together who are not so interrelated.

28. "Transfer Date" means March 1, 1989, the date the Developer relinquished the right to appoint a majority of the Directors to the Board of Directors of the Association and conveyed legal title to the Common Areas to the Association by means of a Quit Claim Deed dated March 1, 1989 and recorded in Official Records Book 5993, Page 1539 of the Public Records of Palm Beach County, Florida.

29. "Villages of Palm Beach Lakes" means the property platted as the Villages of Palm Beach Lakes, Plat No. 1, recorded in Plat Book 41, Pages 1-19, Public Records of Palm Beach County, Florida.

30. "Villages of Palm Beach Lakes Property Owners Association, Inc., means that certain entity created to manage, maintain, and control the Common Areas of the Villages of Palm Beach Lakes. It may also be referred to as the "Villages POA."

ARTICLE II  
GENERAL PLAN OF DEVELOPMENT

1. Developer built two hundred twenty seven (227) single family homes on Lots 1 to 227, Bear Island, inclusive.

2. Those portions of the Common Areas (1) shown as roadways and bridges on the Plat of Bear Island and (2) constructed as sidewalks and driveway aprons between driveways and roads shall be kept and maintained by the Association as private roadways, bridges, sidewalks and driveway aprons for ingress to and egress from the Lots, other areas of Bear Island, and the publicly and privately dedicated roads of the Villages of Palm Beach Lakes.

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ARTICLE IV  
USE OF PROPERTY

2. No Owner or other Occupant of a Lot shall (a) cause or permit any nuisance to exist anywhere within Bear Island so as to be detrimental to any property (whether or not within Bear Island) or its Owners or Occupants; (b) make or permit any noise that will disturb or annoy any persons (whether or not within Bear Island), or (c) do or permit anything to be done which will interfere with the rights, comfort, or convenience of the Owners and Occupants of other Lots.

4. No garage shall be used as a living area. No Lot shall be further subdivided or separated by any Owner; and no portion less than all of any Lot, easement or other interest granted herein shall be conveyed or transferred by any Owner; provided, however, that these restrictions shall not prevent the execution and recording of corrective deeds, deeds to resolve boundary disputes and other similar instruments.

5. No home shall be used in any trade, business, professional or commercial capacity, except that a home may be used as combined residence and executive or professional office by its Occupants, so long as such use does not interfere with the quiet enjoyment of the Owners and Occupants of other Lots or violate any governmental statutes, ordinances or rules and regulations.

---

1       6.     No animals of any kind shall be raised, bred, or kept in any portion of Bear Island,  
2     except as follows:  
3

4           A.     Dogs, cats or other usual and common household pets (not to exceed the  
5     number set in the Rules and Regulations) may be permitted on a Lot, provided that no  
6     animals shall be raised, bred, or kept for any commercial purpose. A pet, whenever outside  
7     its Owner's home or Back Yard, shall at all times be confined on a leash held by a  
8     responsible person. Each person bringing a pet onto any Lot or Common Area shall be  
9     required to clean up after the pet in order to properly maintain the Lot and the Common  
10    Areas.  
11

12          B.     Each Owner, by acquiring a Lot at Bear Island, agrees to indemnify the  
13    Association and the Villages POA and hold each of them harmless against any loss or  
14    liability resulting from bringing, breeding, keeping or maintaining an animal on any portion  
15    of Bear Island.  
16

17          C.     No animal kept on a Lot shall be allowed to roam free, display a mean or  
18    violent temperament, endanger the health of persons or other animals, make objectionable  
19    noise, or constitute a nuisance or inconvenience to Occupants of other Lots in Bear Island.  
20    If the Owner of the Lot involved fails to cure a violation described above (whether or not  
21    such Owner is personally responsible for such violation) within ten (10) days after receiving  
22    written notice from the Board of such violation, the Board shall have the right to authorize  
23    the removal of such animal, and the costs and fees, including attorneys' fees and expenses,  
24    if any, shall be added to and become a part of the assessment to which the Lot is subject and  
25    shall be collectable as an assessment pursuant to Article XI of the Declaration.  
26

27       7.     All window coverings, including without being limited to: draperies, curtains,  
28    shades, shutters and blinds installed in a home, which are visible from the exterior of a home shall  
29    have a white backing unless otherwise approved in writing by the ACC. No sign, symbol, name,  
30    address, notice, or advertisement shall be inscribed or exposed on or at any window or other part  
31    of a home, Lot or Common Areas without the prior written approval of the ACC, provided that the  
32    display of the American and Florida flag and any other flag covered by federal or state law shall  
33    not be abridged and signs permitted or required by law shall not be prohibited.  
34

35       8.     The Board is authorized to promulgate Rules and Regulations (a) restricting the  
36    kinds of vehicles permitted to park overnight within the confines of Bear Island outside of an  
37    Owner's garage, including, without being limited to: commercial vehicles, vehicles with  
38    commercial writing on their exteriors, vehicles primarily used or designed for commercial  
39    purposes, motorcycles, pick-up trucks, tractors, mobile homes, recreational vehicles, trailers (either  
40    with or without wheels), campers, camper trailers, boats and other water craft, boat trailers, stored

1 vehicles and vehicles which are either obviously inoperable or do not have current operating  
2 licenses; (b) regulating hours for deliveries, pickups and services by commercial vehicles, and (c)  
3 regulating the use of containers (including without being limited to PODs). If the Owner of the Lot  
4 involved fails to cure a violation of the Rules and Regulations referred to in this Section 8 (whether  
5 or not such Owner is personally responsible for such violation) within ten (10) days after receiving  
6 written notice of such violation from the Board, the Board shall have the right to direct the removal  
7 of the offending vehicle from the Common Areas, and the resulting costs and fees, including  
8 attorneys' fees and costs, if any, shall be added to and become a part of the assessment to which  
9 the lot is subject and shall be collectable as an assessment pursuant to Article XI of the Declaration.

10

11 9. The Association shall provide reasonable and sufficient irrigation water service to  
12 the Common Areas and to each Lot as a Common Area expense, unless water service is separately  
13 metered for each Lot, in which case irrigation water service to the Owner's Lot shall be the  
14 Owner's expense. The Association shall maintain, repair and replace the sprinkler system serving  
15 the Front Yard of each lot as a Common Area expense. The Owner of a Lot shall maintain, repair  
16 and replace the sprinkler system serving the Back Yard of such Owner's Lot at such Owner's  
17 expense. No wells shall be drilled on any lot for irrigation or other purposes.

18

19 10. Each Owner shall cause all weeds, rubbish, debris, or unsightly materials or objects  
20 of any kind ("trash") to be regularly removed from the Owner's Lot at the Owner's expense and  
21 shall not allow trash originating on the Lot to accumulate on the Lot or the Common Areas. All  
22 refuse containers (except on scheduled trash pick-up days and after sundown on the day before),  
23 all machinery and equipment and other similar items of personal property shall be obscured from  
24 view of adjoining streets, roads, Lots and Common Areas. If the Owner of the Lot involved leaves  
25 trash in the Front Yard or driveway of a Lot (whether his or another Owner's Lot) or in a Common  
26 Area (including the street, sidewalk and driveway apron) in violation of the provisions of this  
27 Section (whether or not such Owner was personally responsible for leaving such trash there) and  
28 fails to have such trash removed within a reasonable period (not less than twenty-four (24) hours)  
29 after receiving written notice of such violation from the Board, the Board shall have the right to  
30 authorize the removal of such trash, and the resulting costs and fees, including attorneys' fees and  
31 expenses, if any, shall be added to and become a part of the assessment to which the lot is subject  
32 and shall be collectable as an assessment pursuant to Article XI of the Declaration.

33

34 11. Each Owner who intends to leave such Owner's home unoccupied for over seven  
35 (7) days during the hurricane season (defined as June 1 through November 30) or for over thirty  
36 (30) days during any other period shall prepare such Owner's home prior thereto by doing the  
37 following:

38

39 A. Removing all furniture, potted plants and other moveable objects from such  
40 Owner's Front and Back Yard; and

---

1           B.     Designating the name, address and contact information of a responsible  
2 person or firm (the "Caretaker") in writing to the Property Manager to care for, maintain  
3 and repair such Owner's home and Lot while unoccupied. With the prior permission of the  
4 ACC, the Owner or the Caretaker may in the event of a hurricane warning may (i) install  
5 temporary hurricane shutters which must be removed when no longer necessary for storm  
6 protection, or (ii) close permanent hurricane shutters, which must be reopened when no  
7 longer necessary for storm protection. At no time shall hurricane shutters be permanently  
8 installed, without the prior written consent of the ACC.  
9

10       12.     Each Owner, tenant, invitee and guest of an Owner shall abide by the provisions of  
11 the Governing Documents. Upon request and payment of the cost of providing such copies, an  
12 Owner or tenant may obtain from the Association Property Manager a current copy of the  
13 Governing Documents, including the Rules and Regulations of the Association, and a list of  
14 "Frequently Asked Questions and Answers," if such list is required under state law. If an Owner  
15 fails to cure a violation of the Governing Documents within ten (10) days (or such shorter or longer  
16 period specified elsewhere herein) after receiving written notice of such violation from the Board,  
17 whether or not such Owner was personally responsible for such violation, the Board shall have the  
18 right to authorize such action (subject to any limitations on such powers as may be stated elsewhere  
19 in the Declaration) as in its sole discretion shall be necessary to cure such violation, and the  
20 resulting costs and fees, including attorneys' fees and expenses, if any, shall be added to and  
21 become a part of the assessment to which the lot is subject and shall be collectable as an assessment  
22 pursuant to Article XI of the Declaration.  
23

24       13.     Should the Association be required to seek enforcement against an Owner of any  
25 provision of the Governing Documents or any resolution of the Board, such Owner (whether or not  
26 such Owner was personally responsible for such violation) shall be liable to the Association for all  
27 costs incurred in the enforcement action, including reasonable attorneys' fees, whether incurred in  
28 trial or appellate proceedings or otherwise.  
29

30       14.     In addition to all other remedies and to the maximum extent lawful, in the sole  
31 discretion of the Board, a fine or fines may be imposed upon an Owner for failure of an Owner, his  
32 family, guests, invitees or employees, to comply with the Governing Documents (including Board  
33 resolutions), provided the following procedures are substantially adhered to:  
34

35           A.     Notice. The Board shall notify the Owner in writing of the alleged infraction  
36 or infractions. Included in the notice shall be the date and time of a hearing before the  
37 Fines Committee at which the Owner shall present reasons why a fine or fines should not  
38 be imposed. Advance notice of such hearing required by law (currently fourteen (14) days  
39 is required by Section 720.305, Florida Statutes) shall be given.  
40

1 B. Hearing. The Owner shall have a right to be represented by counsel and to  
2 cross-examine witnesses at the hearing. After hearing such statements by witnesses under  
3 oath as the Owner and the Fines Committee may deem necessary(subject to reasonable  
4 limitations on the number of witnesses and the length of the hearing), the Fines Committee,  
5 shall submit to the Board at a regular meeting of the Board a written report recommend  
6 whether a fine or fines should be imposed and, if a fine or fines is recommended, the  
7 amount thereof. If the Fine Committee, by majority vote, does not approve a proposed fine,  
8 it may not be imposed.  
9

10 C. Board Review. After reviewing such report, the Board may by resolution  
11 accept or reject the recommendation(s) of the Fines Committee, or may return the report  
12 to the Fines Committee for further hearing(s) as specified in such resolution.  
13

14 D. Amounts. The Board may levy such fines as may be permitted by law  
15 (currently not more than One Hundred Dollars (\$100.00) per violation and not more than  
16 Five Thousand Dollars (\$5,000.00) in the aggregate. Fines may be levied on the basis of  
17 each day of a continuing violation, with a single notice and opportunity for hearing.  
18

19 E. Payment, Collection. A fine shall be paid not later than fifteen (15) days  
20 after notice of its imposition or assessment. In an action to recover a fine, the prevailing  
21 party is entitled to collect its reasonable attorneys' fees and costs from the nonprevailing  
22 party as determined by the court.  
23

24 F. The provision for levying fines shall not be construed to be exclusive, and  
25 shall exist in addition to all other rights and remedies to which the Association may be  
26 otherwise legally entitled, provided that any amounts paid pursuant to this Section shall be  
27 deducted from or offset against any damages which the Association may otherwise be  
28 entitled to recover by law from the Owner.  
29

30 G. The Fines Committee shall consist of at least three members who shall serve  
31 at the pleasure of the Board. A member must be an Owner, but may not be an officer,  
32 director, or employee of the Association, or a member of the ACC, or the spouse, parent,  
33 child, brother or sister of an officer, director, or employee of the Association or a member  
34 of the ACC.  
35

36 ARTICLE V  
37 EASEMENTS  
38

39 1. In the Original Declaration, the Developer granted:  
40

1           A.     A perpetual non-exclusive easement to the Association and to the Owners,  
2           their families, guests, invitees and tenants upon, over, and across the Common Areas;  
3

4           B.     An additional perpetual non-exclusive easement to the Association over,  
5           across, through, and under all Lots for the purpose of performing the maintenance, repair  
6           and replacement requirements of the Association as described in this Declaration (including  
7           performing maintenance, repair, replacement or removal of an Owner's property when such  
8           is authorized by the Governing Documents to correct violations of the Governing  
9           Documents). The Association and its assigns or representatives shall enter upon an Owner's  
10          Lot only after reasonable notice has been given to the Owner;  
11

12          C.     A perpetual non-exclusive easement to all utility or service companies  
13          servicing Bear Island upon, over, across, through, and under the Lots (other than under the  
14          houses) and Common Areas for ingress, egress, installation, replacement, repair and  
15          maintenance of all utility and service lines and systems including, but not limited to water,  
16          irrigation, sewer, gas, telephone, electricity, television cable or communication lines and  
17          systems. It shall be expressly permissible for the providing utility or service company to  
18          install, maintain, repair and replace facilities and equipment on said property, to excavate  
19          for such purposes and to affix and maintain satellite dishes, wires, circuits and conduits and  
20          solar panels on, in and under the roofs and exterior walls of the homes, providing such  
21          company restores any disturbed area or damage to any Owner's property substantially to  
22          the condition existing prior to their activity; provided, however, that no utility service line  
23          or system may be installed or relocated within the Common Areas without the consent of  
24          the Board. Unless the prior approval of the Board is granted, the easements over, across,  
25          through and under the lots shall be limited to improvements as originally constructed;  
26

27          D.     A two (2) foot easement over an adjacent Lot parallel to the entire Lot line,  
28          to the Owner of a Lot on which a Privacy Wall has been erected (or, as provided elsewhere  
29          in this Declaration, the Association) for the sole purpose of maintaining the exterior of such  
30          Owner's Privacy Wall and home. The easement area shall be used exclusively by the  
31          Owner of the Privacy Wall or by the Association, and their agents, their successors or  
32          assigns. Without the written, recordable permission of the Owner of the Privacy Wall, the  
33          easement area shall not be used in any manner by the Owner of the Lot holding fee simple  
34          title to the easement area; and  
35

36          E.     An easement for encroachment in the event any improvements upon the  
37          Common Areas now or hereafter encroaches upon a Lot, or any improvements upon any  
38          Lot now or hereafter encroaches upon the Common Area, as a result of minor inaccuracies  
39          in survey, construction, reconstruction, or due to settlement or movement or otherwise. The  
40          encroaching improvements shall remain undisturbed as long as the encroachment exists.

---

1 This easement for encroachment shall also include an easement for the maintenance, repair  
2 and use of the encroaching improvements, provided however, that at no time shall there be  
3 any encroachment onto the surface water management systems, without the written consent  
4 of the Northern Palm Beach County Water Control District.  
5

6 2. In the Original Declaration, the Developer reserved for the benefit of the  
7 Association an easement on, over, across, under and through each Lot for the purpose of  
8 maintaining, repairing and replacing lawns, landscaping and sprinkler systems in the Front Yard  
9 of such Lot.  
10

11 3. The Association hereby grants a two (2) foot easement over the Common Areas  
12 adjoining a Lot Perimeter Wall or Fence to the Owner of such Lot Perimeter Wall or Fence for the  
13 sole purpose of maintaining such Lot Perimeter Wall or Fence. The easement area shall be used  
14 exclusively by the Owner of the Lot Perimeter Wall or Fence or by the Association, and their  
15 agents, successors or assigns.  
16

17 ARTICLE VI  
18 MAINTENANCE OF EXTERIOR OF THE SINGLE FAMILY HOME  
19

20 1. Each Owner at such Owner's own expense shall maintain in good condition, repair,  
21 replace, clean and paint as required the exterior of such Owner's single family home, including the  
22 roof, fascia, soffit, driveway, paved walks and the fence, if any, between such Owner's Front Yard  
23 and Back Yard, within such Owner's Lot.  
24

25 2. Each Owner at the Owner's expense shall maintain in good order and repair and  
26 replace when necessary at the Owner's expense the Owner's lawn, landscaping, and the sprinkler  
27 system located in the Back Yard of the Owner's Lot. The Association as a common expense shall  
28 maintain the lawn, landscaping, and the sprinkler system located in the Front Yard of each Lot.  
29

30 3. Each Owner at such Owner's expense shall clean, paint, maintain, repair and replace  
31 both sides of the Privacy Wall on such Owner's Lot. An Owner shall have the right to full use of  
32 the Privacy Wall on such Owner's Lot, subject to the limitation that such use shall not infringe on  
33 the rights of the Owner of an adjacent Lot or in any manner impair the value of such Privacy Wall.  
34

35 4. Each Owner at such Owner's expense shall clean, paint, and make superficial  
36 repairs (e. g., filling in a nonstructural crack, painting, etc.) to both sides of a Lot Perimeter Wall  
37 or Fence on such Owner's Lot facing a Common Area or the Bear Lakes Country Club golf course.  
38 An Owner shall have the right to full use of the Lot Perimeter Wall or Fence on such Owner's  
39 Lot, subject to the limitation that such use shall not infringe on the rights of the Association or in  
40 any manner impair the value of a Lot Perimeter Wall or Fence.

---

1           5.       If the Owner fails to perform the Owner's obligations set forth in Sections 1-4 of  
2 this Article within a reasonable period after receiving written notice from the Board thereof, the  
3 Association shall have the right to cause the necessary maintenance, repair, replacement, cleaning  
4 and painting to be performed. The cost thereof, including attorney's fees and costs, if any, to the  
5 Association shall be added to and become a part of the assessment to which the lot is subject and  
6 shall be collectable as an assessment pursuant to Article XI of the Declaration.

7  
8           6.       Structural repairs to the side of a Lot Perimeter Wall or Fence facing a Common  
9 Area or a Bear Lakes Country Club golf course not caused by the negligence or wilful misconduct  
10 of the Owner of the Lot on which such Lot Perimeter Wall Fence is constructed shall be performed  
11 solely by the Association or its agents and at its expense. If the Board determines that damage to  
12 the side of a Lot Perimeter Wall or Fence facing a Common Area or the Bear Lakes Country Club  
13 golf course or destruction of such Lot Perimeter Wall or Fence has been caused by the negligence  
14 or wilful misconduct of the Owner of the Lot on which the Lot Perimeter Wall or Fence is  
15 constructed, such Owner shall repair or reconstruct the Lot Perimeter Wall or Fence, at such  
16 Owner's expense, in a timely manner and in accordance with the standards established by the  
17 Board. If such repair or reconstruction is not completed in satisfactory manner by such Owner  
18 within thirty (30) days after such Owner has received notice of such obligation, unless extended  
19 by the Board, the Association or its agents shall have the right at reasonable times to enter such  
20 adjacent Lot to effect such repair or reconstruction, and the cost thereof as well as all costs incurred  
21 in the enforcement action, including reasonable attorneys' fees, whether incurred in trial or  
22 appellate proceedings or otherwise, shall be added to and become a part of the assessment to which  
23 the Lot is subject and shall be collectable as an assessment pursuant to Article XI of the  
24 Declaration.

25  
26           7.       Maintenance, repair and replacement of a Party Wall shall be the joint obligation  
27 of the Owner or Owners of the Lot or Lots on either side of the Party Wall. An Owner shall have  
28 the right to full use of the Party Wall facing such Owner's Lot, subject to the limitation that such  
29 use shall not infringe on the rights of the Owner or Owners of the Lot or Lots on the other side of  
30 the Party Wall or in any manner impair the value of said Party Wall. In the event of damage or  
31 destruction of the Party Wall from any cause whatsoever, other than negligence or wilful  
32 misconduct of one or more of Owners of adjacent Lots, the Owners shall, at their joint expense,  
33 repair and rebuild the Party Wall within a reasonable period set by the Board, unless extended by  
34 the Board for good cause. The Owners shall agree on the cost and division of such repairs or  
35 reconstruction, and shall agree on the licensed contractor or contractors who shall perform such  
36 repairs or reconstruction. If by the end of thirty (30) days after damage or destruction, the Owners  
37 cannot agree on the cost or division of such repairs or on the qualified contractor or contractors  
38 who shall perform such repairs, the Board of Directors shall thereafter choose the qualified  
39 contractor or contractors who shall perform the repairs and shall assess the costs of such repairs

1 to the Owners in such proportions as the Board of Directors in its sole discretion may determine  
2 to be reasonable.

3  
4 8. Each Owner at such Owner's expense shall clean, paint, and make superficial  
5 repairs (e. g., filling in a nonstructural crack, painting, etc.) to that portion of a Party Wall facing  
6 such Owner's Lot.

7  
8 9. In no event, shall any person make any structural changes in any Lot Perimeter Wall  
9 or Fence, Party Wall, or Privacy Wall, including, but not limited to, change of paint color, without  
10 the prior express written approval of the ACC.

11  
12 10. Whenever any wall or fence or any part thereof shall be rebuilt, it shall be erected  
13 constructed in the same manner and be of the same size and of the same or similar materials and  
14 of like quality and at the same location where it was initially constructed. If the Board of Directors  
15 determines that such maintenance, repair or construction results from the neglect, wilful  
16 misconduct of one or more Owners, such Owner or Owners shall be liable for the cost of  
17 maintaining, repairing or reconstructing such wall, as well as all costs incurred in an enforcement  
18 action, including reasonable attorneys' fees, whether incurred in trial or appellate proceedings or  
19 otherwise, all of which shall be added to and become a part of the assessment to which the lot is  
20 subject and shall be collectable as an assessment pursuant to Article XI of the Declaration. If  
21 maintenance, repairs or reconstruction shall be necessary, all necessary entries on an adjacent Lot  
22 (whether or not within an easement granted elsewhere to the Association or an Owner) shall not  
23 be deemed a trespass. Any such maintenance, repairs and reconstruction shall be done in a  
24 workmanlike manner. Any resulting damages to any Lot shall be borne by the party or parties  
25 responsible for the cost of repair or reconstruction of such wall.

26  
27 11. If an Owner fails to maintain the premises and the improvements on such Owner's  
28 Lot as required herein, the Association and its agents, after notice to the Owner to correct such  
29 violation within thirty (30) days, shall have the right to enter such Lot to correct drainage and to  
30 repair, maintain and restore the exterior of the structures and any other improvements erected  
31 thereon. The Owner of such Lot shall be liable for all costs related to such correction, repair,  
32 maintenance or restoration, as well as all costs incurred in the enforcement action, including  
33 reasonable attorneys' fees, whether incurred in trial or appellate proceedings or otherwise, all of  
34 which, with interest, shall be added to and become a part of the assessment to which the Lot is  
35 subject and shall be collectable as an assessment pursuant to Article XI of the Declaration.

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38 SPACE INTENTIONALLY LEFT BLANK  
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1           D.     Each application must be filed in duplicate and must contain plans and  
2 specifications, including drawings where appropriate, showing the nature, kind, shape,  
3 color, size, materials and location of the proposed Construction sufficient for the ACC to  
4 be able to evaluate whether the application complies with the standards promulgated by the  
5 ACC. One (1) copy of the Application and all required attachments shall be retained by  
6 the ACC for its records.  
7

8           4.     If the ACC fails to approve, modify or disapprove in writing an application within  
9 forty five (45) days after plans and specifications in writing have been submitted to it in accordance  
10 with adopted procedures, approval will be deemed granted.  
11

12           5.     If the ACC disapproves an application in whole or in part, the applicant may appeal  
13 in writing to the Board. The written appeal must be received by the Board not more than forty five  
14 (45) days following the final decision of the ACC. The Board shall have forty-five (45) days  
15 following receipt of an appeal to render its written decision. The Board may approve, reverse or  
16 modify the ACC decision. The failure of the Board to render a decision within the forty-five (45)  
17 day period shall be deemed a decision in favor of the appellant.  
18

19           6.     Conditions.  
20

21           A.     No "work" (defined as clearing, grading, construction of improvements  
22 (including without limitation, pools, saunas, spas, jacuzzis, screened enclosures buildings,  
23 landscaping, mailboxes or fences), decorations, attachments, fixtures, alterations, repairs,  
24 change of paint or stain color, pressure cleaning, or other like work shall be erected,  
25 constructed, affixed, placed, or altered on any lot or on any home located thereon until an  
26 application, with all required plans, specifications, exterior colors and/or finishes,  
27 landscaping plan, and plot plan showing the proposed location of such improvements  
28 attached has been approved by the ACC. The ACC cannot require an Owner to obtain a  
29 building permit for work described in an Application, but the ACC if it feels that  
30 Life/Safety issues are involved, can condition approval of an Application upon obtaining  
31 the appropriate permits.  
32

33           B.     No fence, wall, tree, hedge, shrub or flower bed shall be planted in, altered,  
34 or removed from a Front Yard, except as specified in an application submitted by such lot  
35 owner and approved by the ACC, but only in locations and in compliance with such terms  
36 and conditions as may be imposed by the ACC, including an obligation of maintenance,  
37 repair and replacement at the Owner's expense.  
38

39           C.     No clothing, laundry or wash shall be aired or dried on any portion of a lot  
40 in an area exposed to view from a street or any other Lot or Bear Lakes Country Club golf

1 course. Drying areas will be permitted only in locations approved by the ACC and only  
2 when protected from view by approved screening or fencing.  
3

4 D. No Owner shall construct, install, alter or remove any building, structure,  
5 improvement, machinery, fixture, or equipment, within a Front Yard, except that (1) an  
6 underground propane gas tank to supply gas to a swimming pool or an emergency  
7 generator, (2) an emergency generator and (3) a Heating, Ventilating and Air Conditioning  
8 unit ("HVAC") may be installed in the Front Yard, but only in locations and in compliance  
9 with such terms and conditions as may be imposed by the ACC, including an obligation on  
10 the part of the Owner (a) at such Owner's expense to maintain and repair such equipment  
11 and (b) to hold harmless the Association, its employees and agents, and members of the  
12 Board and the ACC against any and all death, injury and property loss that may result from  
13 locating such tank, generator or HVAC unit in the Front Yard.  
14

15 E. Installation of satellite television dishes is not subject to ACC approval.  
16

17 F. Installation of solar panels is not subject to ACC approval.  
18

19 7. Fees, Deposits. The Board may enact an ACC application fee of up to \$200 and  
20 may require a refundable security deposit of up to \$2,000 to cover the costs of repairs, removal of  
21 debris, injury to the Common Areas or other Lots, and personal injury to workers or other persons.  
22

23 ARTICLE IX  
24 ASSOCIATION EXPENSES, METHOD OF DETERMINING  
25 ASSESSMENTS, AND MAINTENANCE OF EXTERIOR AREAS  
26

27 1. The costs and expenses incurred by the Association with regard to the ownership,  
28 operation, maintenance and repair of the Common Areas shall be Association Expenses.  
29 Association Expenses shall be payable to the Association on an equal basis by all Owners.  
30

31 2. To defray Association Expenses, there is hereby imposed upon each Lot and its  
32 Owner, the affirmative covenant and obligation to pay to the Association, and upon the Association  
33 the obligation to assess, collect and expend, the Association's expenses and those other expenses  
34 hereinafter set forth.  
35

36 A. Taxes. All taxes levied or assessed upon the Common Areas, by any and all  
37 taxing authorities, including all taxes, charges and assessments, imposition and liens for  
38 public improvements, special charges and assessments; and, in general, all taxes on  
39 personal property and improvements which are now and which hereinafter may be placed

1 in the Common Area, including any interest penalties and other charges which may accrue  
2 on such taxes.

3  
4 B. Utility Charges. All charges levied for utility services to the Common Areas  
5 and the Members, whether supplied by a private or public firm including, without  
6 limitation, all charges for water, gas, electricity, telephone, sewer, alarm and any other type  
7 of utility or service charge, flat, metered or submetered.

8  
9 C. Insurance. All premiums on any policy or policies of insurance required  
10 under Article X hereof, together with the costs of such other policies of insurance, as the  
11 Board shall determine to be in the best interest of the Association, provided however, that  
12 fire and extended coverage on Common Areas shall be maintained on a current replacement  
13 cost basis in an amount not less than 100% of the insurable value based on current  
14 replacement cost.

15  
16 D. Insurance Trustee. All expenses necessary to retain and continue to retain  
17 a lending institution in Palm Beach County, Florida, having a trust department to act as  
18 "Insurance Trustee." The functions of the Insurance Trustee shall include holding all  
19 original policies purchased by the Association, being named as loss payee, distributing  
20 proceeds of such insurance, assisting in the reconstruction of improvements from insurance  
21 proceeds and performing such other functions as shall be agreed upon.

22  
23 E. Fidelity Coverage. All costs to the Association of purchasing adequate  
24 fidelity insurance or bonds to protect against dishonest acts on the part of officers, directors,  
25 trustees, agents and employees of the Association and all other persons who handle or are  
26 responsible for handling funds of the Association. Each fidelity insurance or bond must:

27  
28 (i) Name the Association as an obligee; and

29  
30 (ii) Be written in the amount equal to at least 150% of three months  
31 operating expenses of the Association, and the amount in reserve as of the end of  
32 each fiscal year of the Association; and

33  
34 (iii) Contain waivers of any defense based upon the exclusion of persons  
35 who serve without compensation from any definition of "employee" or a similar  
36 expression; and

37  
38 (iv) Provide that it may not be cancelled or substantially modified  
39 (including cancellation for nonpayment of premiums) without at least thirty (30)  
40 days prior written notice of the servicer or the insured.

---

1           F.     Reconstruction of buildings and improvements. All sums necessary to  
2     repair, replace, construct or reconstruct ("repair") any buildings or improvements located  
3     in the Common Areas damaged by any casualty to the extent insurance proceeds are  
4     insufficient for repair. Any difference between the amount of insurance proceeds received  
5     on behalf of the Association with respect to repair and the actual cost of the repair ("repair  
6     sums") shall be an Association Expense for which the Association shall levy a special  
7     assessment against all Owners, if any, to obtain the funds necessary to pay for such repair  
8     sums within ninety (90) days from the date such damage was incurred. The Association  
9     shall establish an account with an Institutional Mortgagee located in Palm Beach County,  
10    Florida, and deposit into such account all repair sums and all insurance proceeds collected  
11    by the "Insurance Trustee," if any, so that the amounts on deposit will equal the costs of  
12    repair. The Association shall proceed so that repairs shall be completed within one (1) year  
13    from the date of damage, if possible.

14  
15           G.     Maintenance, repair and replacement. All expenses necessary to maintain  
16    and repair the lawns, landscaping and sprinkler systems located in the Front Yard of each  
17    Lot, the Common Areas, and the road rights-of-way abutting the Common Areas.

18  
19           H.     Optional expenses. The costs of administration for the Association,  
20    including any secretaries, bookkeepers and other employees necessary to carry out the  
21    obligations and covenants of the Association under the Declaration, notwithstanding the  
22    fact that some of these services may be expanded in providing services to collecting sums  
23    owed by a particular Owner. In addition, the Association may retain a licensed property  
24    management company, an individual with a CAM license, or licensed contractors to assist  
25    in the operation of the Association and to perform or assist in the performance of certain  
26    obligations of the Association hereunder. The Association may also retain a contractor to  
27    maintain an electronic web-site. The fees or costs of any management company, individual  
28    or contractor so retained shall be deemed to be part of the Association's Expenses.

29  
30           I.     Indemnification. The costs to the Association to indemnify its employees,  
31    officers and members of the Board, the ACC and the Fines Committee for all costs and  
32    expenses whatsoever incurred in pursuance of their duties, obligations and functions  
33    hereunder.

34  
35           J.     Reserve funds. The costs to establish an adequate reserve fund for  
36    replacement and/or capital refurbishment of the Common Areas and the payment of other  
37    common expenses (the "capital contributions") in the amounts determined proper and  
38    sufficient by the Board, if any. Each Owner acknowledges, understands and consents that  
39    capital contributions are the exclusive property of the Association as a whole, and that no  
40    Owner shall have any interest, claim or right to any such capital contributions or funds

1 composed of the same. The Association shall be responsible for maintaining the capital  
2 contribution in a separate reserve account and to use such funds only for capital costs and  
3 expenses as aforesaid.  
4

5 K. Special assessments. Any special assessment levied to defray (i)  
6 extraordinary items of Association expense other than those contemplated by capital  
7 contribution; and (ii) such other Association expenses determined by the Board to be  
8 payable by the Association and which are not inconsistent with the terms of Governing  
9 Documents. Special assessments for cleaning or painting Owners' roofs, fascias and soffits  
10 shall be abated by the Board with respect to Owners who have been determined by the  
11 Board to have cleaned or painted their roofs, fascias and soffits in a satisfactory manner and  
12 on a reasonable schedule.  
13

14 L. Villages POA. All amounts payable to Villages POA for the maintenance  
15 and repair of the Common Areas of the Villages POA shall be assessed to the Owners  
16 through the Association in accordance with the Villages of Palm Beach Lakes Declaration  
17 of Covenants and Restrictions, as amended from time to time.  
18

19 3. First Mortgagees. First Mortgagees of Lots may, jointly or singularly, pay taxes or  
20 other charges which are in default, and which may or have become a charge or encumbrance  
21 against the Common Areas, and may pay overdue premiums on hazard insurance policies or new  
22 hazard coverage upon lapse of a policy with respect to the Common Areas, with a right of  
23 immediate reimbursement from the Association.

24 4. Bulk Rate Cable Television, Telecommunication and Communication Services and  
25 Security (Alarm) Systems. The Association through the Board is authorized to enter into bulk rate  
26 contracts for cable, satellite or other television or telecommunication signal distribution and other  
27 communication systems, including fiber optic systems; and security (alarm) systems (for both the  
28 Common Areas and the Lots), and charges related thereto shall be an Association Expense.  
29

30 5. Method of Determining Assessments. The "assessments" (as hereinafter defined)  
31 for Association expenses shall be levied and paid for as follows:  
32

33 A. It is hereby declared and all Owners and the Association agree that the  
34 Association expenses shall be paid by the Association out of funds assessed and collected  
35 from and paid by all Owners.  
36

37 B. As provided in the By-Laws of the Association, the Board shall prepare an  
38 estimated annual budget which shall reflect the estimated Association Expenses. The total  
39 number of Lots in Bear Island shall be used as the denominator and the number "1" shall  
40 be used as the numerator for the calculation of equal shares of Association Expenses. For

1 example, if the total number of lots is two hundred twenty seven (227), each Lot shall be  
2 liable for 1/227 of Association Expenses.  
3

4 C. The assessments may be adjusted by the Board from time to time as  
5 necessary to allow for any change in the amount of estimated Association Expenses. The  
6 adjustment may be made by dividing the total anticipated Association expenses for the  
7 remainder of the calendar year by the total number of Lots in Bear Island.  
8

9 D. The assessments shall be payable no less frequently than quarter-annually  
10 in advance on the first day of January, April, July and October, or otherwise as the Board  
11 may determine.  
12

13 ARTICLE X  
14 INSURANCE  
15

16 1. Casualty. The Association shall maintain a master policy or policies to insure all  
17 Association property against casualty loss. This coverage shall insure 100% of the current  
18 replacement cost of the Common Area improvements, personal property, and supplies. It shall be  
19 in such amounts so that the insured will not be a co-insurer except under deductible clauses  
20 required to obtain coverages at a reasonable cost.  
21

22 A. The coverages will EXCLUDE the following:  
23

- 24 (i) Land, foundations, excavations or other items that are usually  
25 excluded from insurance coverage; and  
26 (ii) Any increase in the value of Association property as a result of  
27 special improvements, alterations and betterments.  
28

29 B. The coverage will INCLUDE the following:  
30

- 31 (i) Loss or damage by fire or other hazards covered by a standard  
32 extended coverage endorsement;  
33 (ii) All other perils customarily covered for similar types of projects,  
34 including those covered by the "standard all risk" endorsement;  
35 (iii) Agreed Amount and Inflation Guard Endorsement, when it can be  
36 obtained;  
37 (iv) Demolition Cost Endorsements, Contingent Liability from Operation  
38 of Building Laws Endorsement, and Increased Cost of Construction Endorsement;  
39 and

1 (v) Steam Boiler Endorsement, if applicable, providing at least  
2 \$50,000.00 coverage for each accident at each location;  
3

4 C. When appropriate and possible, the policies shall waive the insurer's right  
5 to:  
6

7 (i) Subrogation against the Association and against the ~~tot~~ Owners,  
8 individually and as a group;

9 (ii) The pro rata clause that reserves to the insurer the right to pay only  
10 a fraction of any loss if other insurance carriers have issued coverage upon the same  
11 risk; and

12 (iii) Avoid liability for a loss that is caused by an act of the Board, or by  
13 a member of the Board or by one or more ~~tot~~ Owners.  
14

15 D. In addition, the policy shall provide that:  
16

17 (i) Any Insurance Trust Agreement will be recognized;

18 (ii) The policy shall be primary, even if the Association has other  
19 insurance that covers the same loss; and

20 (iii) The named insured shall be the Association. The "loss payable"  
21 clause should show ~~said~~ *the* Association or the designated insurance trustee.  
22

23 2. Reconstruction and Repair after Casualty.  
24

25 A. Under ordinary circumstances Association property which is damaged by  
26 casualty shall be reconstructed and repaired. If a dispute arises as to whether the  
27 Association property should be repaired or reconstructed, the Board shall make the  
28 determination to repair or reconstruct. All Owners shall be bound by this determination.  
29

30 B. Although it is impossible to anticipate all problems which may arise from  
31 a casualty the intent is to try to assure that the overall quality of the General Development  
32 Plan of Bear Island is maintained by requiring damaged Association property to be rebuilt  
33 or repaired and that unsightly and dangerous conditions are remedied as soon as possible.  
34 Any reconstruction and repair must be substantially in accordance with the plans and  
35 specifications for such property as originally constructed, or if none, then according to plans  
36 and specifications approved by the Board. If the proceeds of insurance are not sufficient to  
37 defray the estimated costs of reconstruction and repair for which the Association is  
38 responsible, or if at any time during that work or upon completion of the work the funds  
39 available for payment of the costs are insufficient, *special* assessments shall be made by the

1 Association against all ~~for~~ Owners in sufficient amounts to provide funds for the payment  
2 of those costs.

3  
4 3. Public Liability Coverage. The Association shall obtain comprehensive general  
5 liability coverage insuring the Association, its employees and agents, officers and members of the  
6 Board, members of the ACC and members of the Fines Committee against any and all claims and  
7 demands made by any person or persons for injuries received in connection with the operation and  
8 maintenance of the Common Areas and improvements located thereon, or for any other risk insured  
9 against by such policies (including what is commonly called Errors and Omissions) which the  
10 Board, in its sole discretion, determines to insure against. Each policy purchased by the Association  
11 shall have limits of not less than \$5,000,000.00 covering all claims for personal injury and property  
12 damage arising out of a single occurrence. The liability coverage shall include protection against  
13 liability for non-owned and hired automobiles and liability for hazards related to usage. In addition,  
14 the coverage shall include protection against liability that results from actions related to  
15 employment contracts in which the Association is a party. All such policies will name the  
16 Association, its employees and agents, and officers and members of the Board, members of the  
17 ACC and members of the Fines Committee, as their respective interests may appear, as insured  
18 parties under such policy or policies.

19  
20 4. Fidelity Bond Coverage. The Association shall obtain Fidelity Bonds covering  
21 officers, directors, employees and other persons who handle or are responsible for handling  
22 Association funds. Such bonds shall be in an amount equal to at least one hundred fifty percent  
23 (150%) of three months operating expenses, ~~and~~ *plus* the amount in reserve as of the end of each  
24 fiscal year of the Association and shall contain waivers of any defense based upon the exclusion  
25 of persons serving without compensation.

26  
27 5. Flood Insurance. If any part of the Common Areas are in a special flood hazard  
28 area, as defined by the Federal Emergency Management Agency, the Association shall insure same.  
29 The coverage shall be 100% of the current replacement cost of any Common Area improvements  
30 or buildings and other insurable common property, or the maximum coverage available for such  
31 improvements, buildings, or property under the National Flood Insurance Program.

32  
33 6. All insurance shall be issued by a company authorized to do business in the State  
34 of Florida.

35  
36 7. Premiums on policies purchased by the Association shall be paid as an Association  
37 Expense. The Association will furnish evidence of premium payment to each mortgagee upon  
38 request.

39

8. All insurance policies purchased by the Association shall be for the benefit of the Association and shall provide that all proceeds covering property losses shall be paid to the Association as trustee or to such institution in Florida with trust powers as may be designated as Insurance Trustee by the Board.

9. This Article is additionally for the benefit of first mortgagees of homes and may not be amended without the consent of all such mortgagees.

10. All insurance policies purchased by the Association shall require the insurer to notify in writing the Association or the designated Insurance Trustee and each first mortgagee named in any mortgage clause in the policy at least 10 days before it cancels or substantially changes the coverage.

11. The Association is irrevocably appointed agent to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

12. The original of each insurance policy purchased by the Association shall be held by the Board or in the office of Property Manager.

ARTICLE XI  
ESTABLISHMENT AND ENFORCEMENT OF LIENS

1. All assessments for Association Expenses, including special assessments for same, and all installments thereof and all costs of collection, including reasonable attorneys' fees and costs, at trial level, appellate level, or otherwise (collectively, the "assessments"), with interest thereon, are hereby declared to be a charge and a continuing lien upon the lot against which such assessments are made. Each assessment against a Lot, together with such interest thereon at the highest rate allowed by law and costs of collection thereof, including attorneys' fees, shall be the personal obligation of the Owner of the Lot assessed. Said lien shall be effective only from and after the time of recordation in the Public Records of Palm Beach County, Florida, of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien and costs and fees accrued, the party making payment shall be entitled to a recordable Satisfaction of Lien.

2. In the event any Owner shall fail to pay assessments or any installment thereof charged to such Owner's Lot within (15) days after the same becomes due, the Association, through its Board, subject to compliance with the provisions of Section 720.3085, Florida Statutes, as amended from time to time, shall have all of the following remedies to the extent permitted by law:

1           A.     To accelerate the entire amount of any assessments for the remainder of the  
2 calendar year notwithstanding any provisions for the payment thereof in installments.  
3

4           B.     To advance on behalf of the defaulting Owner funds to accomplish the needs  
5 of the Association and the amount or amounts of money so advanced, including reasonable  
6 attorneys' fees and expenses which might have been reasonably incurred because of or in  
7 connection with such advance, including costs and expenses of the Association if it must  
8 borrow to pay expenses because of the Owner's default, together with interest at the highest  
9 rate allowable by law, may thereupon be collected or enforced by the Association and such  
10 advance or loan by the Association shall not waive the default.  
11

12           C.     To file an action in equity to foreclose its lien at any time after the effective  
13 date thereof. The lien may be foreclosed by an action in the name of the Association in a  
14 like manner as the foreclosure of a mortgage on real property.  
15

16           D.     To file an action at law to collect said assessments, plus interest at the  
17 highest rate allowable by law plus court costs, without waiving any lien rights and/or rights  
18 of foreclosure by the Association.  
19

20           E.     To charge (i) interest at the rate of 18 per cent per year and (ii) an  
21 administrative late fee of the greater of Twenty Five (\$25.00) Dollars or five percent (5%)  
22 of the amount in default until paid in full.  
23

24           F.     An Owner, regardless of how his title to the Lot has been acquired, including  
25 by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all  
26 assessments that come due while he is the Owner of the Lot. The Owner's liability for  
27 assessments may not be avoided by waiver or suspension of the use or enjoyment of any  
28 common area or the abandonment of the Lot subject to such assessments. The Owner is  
29 jointly and severally liable with the previous Owner for all unpaid assessments that came  
30 due up to the time of transfer of title, subject, with respect to a first mortgagee or its  
31 successor, or an assignee, as a subsequent holder of the first mortgage, who acquires title  
32 by foreclosure or by deed in lieu of foreclosure, to the limitations of Section  
33 720.3085(2)(c), Florida Statutes, as amended from time to time. This liability is without  
34 prejudice to any right the present Owner may have to recover any amounts paid by the  
35 present Owner from the previous Owner.  
36

37  
38                   SPACE INTENTIONALLY LEFT BLANK  
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ARTICLE XIII  
AMENDMENTS

2. Notwithstanding the foregoing, no amendment to Article IX or X, and no other amendment shall be effective which shall in a material fashion impair or prejudice the rights or priorities of any Owner, the Association, or any Institutional Mortgagee under this Declaration without the specific written approval of the Owner, the Association, or the Institutional Mortgagee affected thereby. In addition, any amendment which would affect the surface water management system, including the water management portions of the common areas, must have the prior approval of the South Florida Water Management District.

4. An amendment to the Declaration shall become effective upon the recordation in the Public Records of Palm Beach County, Florida.

---

ARTICLE XIV  
SALES AND LEASES

In order to assure a community of congenial residents and thus protect the value and security of the homes in Bear Island community, the sale or lease of homes shall be subject to the following provisions:

1. The Owner shall notify the Association in writing of the Owner's intention to sell or lease the Owner's home and furnish with such notification a copy of the contract for sale or lease, whichever is applicable.

2. Any and all lease agreements between an Owner and a lessee of such Owner shall be in writing, must provide for a term of not less than six (6) months, and must provide that the lessee shall be subject in all respects to the terms and provisions of the Governing Documents and that any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. The lease agreement shall also state who will be responsible for the assessments, and it shall be the obligation of the Owner to supply the Board with a copy of the written lease agreement prior to the lessee occupying the premises. Unless provided to the contrary in a lease agreement, an Owner, by leasing such Owner's home, automatically delegates such Owner's right of use and enjoyment of the Common Areas and facilities to the lessee; and in so doing, the Owner relinquishes all such rights during the term of the lease agreement.

3.

A. In the event of a sale the purchaser shall also furnish to the Association no later than the closing date of such sale (i) the new Owner's mailing address for all future *assessments* and other correspondence from the Association, (ii) a written acknowledgment signed by the new Owner that the new Owner has been provided with true copies of the Governing Documents, has read them and agrees to abide by them, as they may be amended from time to time, and (iii) passport-sized photographs of each permanent Occupant of the Lot. The new Owner shall also provide the Association with passport-sized photographs of permanent Occupants who reside in the home in the future no later than the date of such occupation.

B. In event of a lease the Owner shall also furnish the Association with (i) the mailing address of the person to whom all future assessments and other correspondence from the Association shall be sent, (ii) a written acknowledgment signed by the lessee that the lessee has been provided with true copies of the Governing Documents, has read them and agrees to abide by them as they may be amended from time to time, and (iii) passport-sized photographs of each Occupant of the Lot. The lessee shall also provide the

1 Association with passport-sized photographs of permanent Occupants who reside in the  
2 home in the future no later than the date of such occupation.  
3

4 C. Upon receipt of a copy of the contract for sale or lease meeting the requirements set  
5 forth in Sections 1, 2 and 3A or 3B above, the Association shall within twenty (20) business days,  
6 issue a Certificate indicating the Association's approval of the transaction.  
7

8 4. Except as provided in paragraph 5 below, it is not the intention of this Article to  
9 grant to the Association a right of approval or disapproval of purchasers or lessees. It is, however,  
10 the intent of this paragraph to impose an affirmative duty on the Owners to keep the Association  
11 fully advised of any changes in occupancy or ownership for the purposes of facilitating the  
12 management of the Association's records and the security of homes and residents of Bear Island.  
13 As this Article is a portion of the Declaration which runs with the land, any transaction which is  
14 conducted without compliance with this Article may be voidable by the Association.  
15

16 5. Notwithstanding the provisions of Sections 3 and 4 above, if any assessment is  
17 delinquent, or an Owner or an Owner's purchaser, or the family, guests, agents, licensees or  
18 invitees of the Owner or Owner's purchaser are not in compliance with any provisions of the  
19 Governing Documents, the Board has the right to disapprove of any proposed sale prior to closing;  
20 and in the case of a lease, the right to disapprove of and to void any lease at any time prior to or  
21 during the leasehold tenancy until any delinquent assessment is paid and/or until any violation of  
22 any provision of the Governing Documents is corrected. If the Board disapproves or voids a sale  
23 or lease, but the purchaser or tenant does not vacate the Lot, the Board may file suit to evict the  
24 purchaser or tenant and recover its reasonable attorneys' fees and costs, as determined by the court,  
25 against the Owner and the purchaser or tenant, jointly and severally. This right of eviction is in  
26 addition to all other remedies available to the Association.  
27

28 6. The Association may charge a nonrefundable lease or purchase application fee of  
29 at least One Hundred Dollars (\$100.00).  
30

31 ARTICLE XV  
32 TERMINATION  
33

34 1. This Declaration, as amended from time to time, will continue unless and until it  
35 is terminated upon the affirmative written consent of the Owners of eighty percent (80%) of all  
36 Lots and upon the affirmative written consent of all Institutional Mortgagees holding mortgages  
37 encumbering lots.  
38

2. If this Declaration is terminated in accordance herewith, it is hereby declared by the Association, and each and every Owner of a Lot by acquiring title thereof covenants and agrees, that the termination documents shall require:

A. That all homes shall continue to be used solely as single family residences.

B. All Common Areas shall be owned and held in equal shares by the lot Owners as tenants in common, and each Owner shall remain obligated to pay such Owner's pro rata share of expenses required to maintain, repair and replace, if necessary, the Common Areas.

3. The Owners and their grantees, successors, and assigns, by acquiring title to a Lot covenant and agree that no termination of this Declaration shall be made for a period of twenty-five (25) years from the date of recordation of this Declaration. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the subject property and inure to the benefit of the Association, the Owners, Institutional Mortgagees and their respective legal representatives, heirs, successors, and assigns for such period. After such period, the Declaration shall be automatically renewed and extended for successive periods of ten (10) each unless at least one (1) year prior to the termination of such twenty-five (25) year term or any such ten (10) year extension there is recorded amongst in the Public Records of Palm Beach County, Florida, an instrument signed by at least eighty percent (80%) of all Institutional Mortgagees holding mortgages encumbering the Lots agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of twenty-five (25) years or the ten (10) year extension thereof during which the termination instrument is recorded.

4. If the Association is terminated, the property consisting of the surface water management system operated and maintained as part of the Common Areas shall be conveyed to an appropriate agency of local government, and if not accepted thereby, then it must be conveyed to a similar non-profit corporation.

## ARTICLE XVI

VILLAGES OF PALM BEACH LAKES PROPERTY OWNERS ASSOCIATION, INC.

Each Owner in Bear Island is a mandatory member of the Villages of Palm Beach Lakes Property Owners Association, Inc. The Association is obligated to collect and to pay to the Villages POA such assessments for expenses as are billed to each Owner. Each Owner agrees to accept membership in said Villages POA, and further agrees to be bound by all of the terms, provisions, and conditions contained in the Declaration of Covenants and Restrictions, Articles of Incorporation, and the By-Laws of the Villages POA, as amended from time to time, including, without limitation, the duty to pay the assessments of Villages POA through the Association.

---

ARTICLE XVII  
MISCELLANEOUS

1  
2  
3  
4       1.       The failure of the Association, or any Owner to object to an Owner's or other  
5 person's failure to comply with the Governing Documents shall in no event be deemed a waiver  
6 of any right to object to same and to seek compliance therewith in accordance with the provisions  
7 herein.

8  
9       2.       Article and paragraph captions inserted throughout this Declaration are intended  
10 only as a matter of convenience and for reference only and in no way shall such captions or  
11 headings define, limit or in any way affect any of the terms and provisions of this Declaration.

12  
13       3.       Whenever the context requires, any pronoun used herein may be deemed to mean  
14 the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns  
15 or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

16  
17       4.       In the event any one of the provisions of this Declaration shall be deemed invalid  
18 by a court of competent jurisdiction, said judicial determination shall in no way affect any of the  
19 other provisions hereof, which shall remain in full force and effect.

20  
21       5.       The Association may not convey, encumber, abandon, partition or subdivide any  
22 of the Common Areas without the approval of all Institutional Mortgagees. An Institutional  
23 Mortgagee, upon written request to the Association, shall be entitled to written notification from  
24 the Association of (a) any default by the Owner of a Lot encumbered by such mortgage of any  
25 obligation hereunder not cured within sixty (60) days after the Association has given notice to such  
26 Owner of such default, (b) any condemnation loss or any casualty loss which affects a material  
27 portion of the General Plan of Development or any Lot encumbered by such mortgage, and (c) any  
28 cancellation or material modification of any insurance policy or fidelity bond maintained by the  
29 Association. The Association shall be deemed to have complied with the provisions of this Section  
30 if it mails the notice to the last known address of the Institutional Mortgagee whose request in on  
31 file with the Association.

32  
33       6.       Upon written request after reasonable notice, the Association is required to make  
34 available to any Owner and to any lender, holder, insurer or guarantor of any first mortgage, for  
35 inspection or copying at the expense of the person requesting them and during normal business  
36 hours or at such other times as the parties may agree, current copies of the Governing Documents,  
37 as well as the books, records, and financial statements of the Association.

38  
39       7.       Upon written request to the Association, identifying the name and address of the  
40 holder, insurer, or guarantor and the lot number and address, such mortgage holder, insurer, or

---

1 guarantor will be entitled to timely notice of any proposed action that requires the consent of a  
2 specified percentage of mortgage holders. The Association shall be deemed to have complied with  
3 the provisions of this Section if it mails the notice to the last known address of the person whose  
4 request in on file with the Association.

5  
6 8. Notwithstanding any provision to the contrary set forth above, unless at least two-  
7 thirds of the first mortgagees (based on one vote for each first mortgage owned) or the Owners of  
8 two-thirds of the Lots have given their written approval, the Association, by act or omission, may  
9 not change, waive or abandon (i) the method of determining the assessments or other charges that  
10 may be levied against a lot owner; or (ii) any scheme of regulations or their enforcement pertaining  
11 to architectural design or the exterior appearance of lots (except as may be required by law), or (iii)  
12 the care and maintenance of the Common Areas; or (iv) use hazard insurance proceeds for losses  
13 to the Common Areas other than for the repair, replacement, or reconstruction of the Common  
14 Areas.

15 9. Each Owner will be subject to the taxing authority of the Northern Palm Beach  
16 County Water Control District.

17  
18 10. Common Area street lighting will be obtained by the Association from Florida  
19 Power & Light Company ("FPL") or from any other provider legally empowered to provide electric  
20 energy, or by means of solar power panels or other developing technology.

21  
22 *END*

---

**EXHIBIT "A" TO AMENDED AND RESTATED DECLARATION  
OF COVENANTS AND RESTRICTIONS FOR BEAR ISLAND**

ALL of the Plat of BEAR ISLAND, according to the plat thereof recorded in Plats Book 57, Pages 55-59, inclusive, Public Records of Palm Beach County, Florida, such lands lying and being in the County of Palm Beach, State of Florida.



STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the  
foregoing is a true copy  
of the record in my office.

THIS 1st DAY OF Oct, 2009

SHARON R. BOCK  
CLERK & COMPTROLLER

By \_\_\_\_\_

DEPUTY CLERK

Return to: (enclose self-addressed stamped envelope)

Name

Address

JUN-04-1997 4:11PM 97-197828

ORS 9826 P3 1060

1

Property Appraiser's Parcel Identification (Folio) Number(s)

**CERTIFICATE OF AMENDMENT TO THE  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
BEAR ISLAND**

I HEREBY CERTIFY that the Amendment attached as Exhibit "A" to this Certificate was duly adopted as an Amendment to the Declaration of Covenants and Restrictions for Bear Island which is recorded in Official Records (Book) 5540, at Page 731 of the Public Records of Palm Beach County, Florida. Also attached as Exhibit "B" is the consent to the Amendment of the institutional mortgagee with the highest aggregate mortgage indebtedness on the Bear Island lots.

DATED this 4th day of June, 1997.

WITNESSES:

1. Sign [Signature]  
Print DAVID ST. JOHN

Sign [Signature]  
Print FRANK MOSCATO

2. Sign [Signature]  
Print Heidi Nixon

Title Secretary  
Address 2885 Whitewing Lane  
West Palm Bch, FL 33409

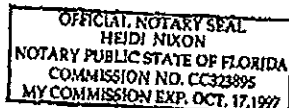
STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

BEFORE ME personally appeared Frank Moscato, Secretary of Bear Island Homeowners Association, Inc., who is personally known to me or who has produced ~~identification~~ and who did take an oath, to be the individual who executed the foregoing instrument and acknowledged to and before me that he executed such instrument as Secretary of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS my hand and official seal this 4th day of June, A.D. 1997.

NOTARY PUBLIC

(SEAL)



Sign [Signature]  
Print Heidi Nixon  
State of Florida at Large  
My Commission Expires: Oct. 17, 1997.

This instrument prepared by:  
David St. John, Esquire  
ST. JOHN, DICKER & CAPLAN  
500 Australian Avenue So., Suite 600  
West Palm Beach, Florida 33401  
(561) 655-8994  
34710101 en

AMENDMENT  
TO  
THE DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
BEAR ISLAND

Article VI, Section 1 of the Declaration of Covenants, Conditions and Restrictions for Bear Island is amended as follows (language deleted is ~~struck through~~ and language added is underlined):

ARTICLE VI  
MAINTENANCE OF EXTERIOR OF THE SINGLE FAMILY HOME

1. Each owner shall maintain the exterior of his single family home, including the walls (excluding the lot perimeter wall as specified herein), and fences and roof, fascia and soffit in good condition and repair. The Association shall maintain clean and paint as needed the roof, fascia and soffit of each single family home in good condition and repair. All costs reasonably related to the Association's maintenance cleaning and painting of the roof, fascia, and soffit shall be borne by the Association as a common expense. If an owner fails to perform the owner's maintenance obligation, the Association shall have the right to cause the necessary maintenance repair or replacement to be performed. The cost thereof, including attorney's fees and reasonable overhead costs to the Association, shall be added to and become a part of the assessment to which the lot is subject and shall be collectable as an assessment pursuant to Article XI of the Declaration.

EXHIBIT "A"

URB 9826 Pg 1062

DOROTHY H. WILKIN, CLERK PB COUNTY, FL

BEAR ISLAND HOMEOWNERS ASSOCIATION, INC.

MORTGAGEE CONSENT

THE UNDERSIGNED, as mortgagee of numerous residential units at the development known as Bear Island in West Palm Beach, Florida, consents to the Amendments to the Declaration of Covenants and Restrictions for Bear Island set forth on attached Exhibit "A".

COMMUNITY SAVINGS, AND LOAN F. A.  
ASSOCIATION

By:

Charles Gifford  
CHARLES GIFFORD

Position:

VIC PRESIDENT

Date:

6/3/97

247 MTH

EXHIBIT "B"

Will Call Box 110 ✓  
This instrument prepared by:  
Scott A. Stoloff, Esquire  
ST. JOHN, DICKER, CAPLAN,  
KRIVOK & CORE, P.A.  
500 Australian Avenue So., Suite 600  
West Palm Beach, Florida 33401  
(561) 655-8994

**SECOND CERTIFICATE OF AMENDMENT TO THE  
DECLARATION OF COVENANTS AND RESTRICTIONS FOR BEAR ISLAND**

I HEREBY CERTIFY that the Amendment attached as Exhibit "A" to this Certificate was duly adopted as an Amendment to the Declaration of Covenants and Restrictions for Bear Island which is recorded in Official Records Book 5540, at Page 731 of the Public Records of Palm Beach County, Florida. Also attached as Exhibit "B" is the consent to the Amendment of the institutional mortgagee with the highest aggregate mortgage indebtedness on the Bear Island lots.

DATED this 19<sup>th</sup> day of JUNE, 1999.

WITNESSES:

1. Sign [Signature]  
Print Manny Kavakes

Sign [Signature]  
Frank Moscato, President

2. Sign [Signature]  
Print CONNIE MOSCATO

Sign [Signature]  
Kamil Sharoubim, Secretary

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

BEFORE ME personally appeared Frank Moscato, President and Kamil Sharoubim, Secretary of Bear Island Homeowners Association, Inc., who are personally known to me or who have produced identification and who did take an oath, to be the individuals who executed the foregoing instrument and acknowledged to and before me that they executed such instrument as President and Secretary of the Association with due and regular corporate authority, and that said instrument is the free act and deed of the Association.

WITNESS my hand and official seal this 19<sup>th</sup> day of JUNE, A.D. 1999.

(SEAL)

NOTARY PUBLIC

sign [Signature]

print William Tide

State of Florida at Large

My Commission Expires

WILLIAM TIDE  
My Comm Exp 10/15/99  
Bonded By Service Ins  
No. CC502067  
Notary Public  
FLORIDA

**AMENDMENTS TO  
THE DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
BEAR ISLAND**

Bear Island Homeowners Association, Inc. agrees to the following amendments to the Declaration of Covenants and Restrictions for Bear Island ("Declaration"). (*Words underlined are added and words ~~struck-through~~ are deleted.*)

**ITEM 1. Mail-in Ballot Procedures.** ARTICLE III, entitled "MEMBERSHIP AND VOTING RIGHTS," is amended by adding a new Paragraph "3" as follows:

3. The Board is authorized to enact a provision to the By-Laws that provides for self-nomination of candidates for the Board of Directors and procedures for electing Board members by mail-in ballots. The election of Directors shall be effective so long as at least 20% of the membership votes by mail-in ballots and by ballots cast at an election meeting.

**ITEM 2. Restrictions on Unregistered or Unsightly Vehicles.** Paragraph "8" of ARTICLE IV, entitled "USE OF PROPERTY," is amended by adding the following to the end of Paragraph "8":

The Association is authorized to promulgate rules and regulations restricting the parking of unregistered or unsightly vehicles, including, but not limited to vehicles that are covered, damaged or malfunctioning and includes commercial vehicles, pickup trucks and any vehicle with lettering on exterior panels. Such vehicles can be kept on the property as long as they are garaged and not in view.

**ITEM 3. Authorization to Levy Fines.** Paragraph "13" of ARTICLE IV, entitled "USE OF PROPERTY," is amended by adding the following to the end of Paragraph "13":

The Association is authorized to levy fines against any homeowner or the owner's family, guests, invitees or lessees for violation of the governing documents. Such fines shall be considered an individual assessment to be collected as an assessment against the lot as provided in Article XI of this Declaration.

**ITEM 4. Architectural Control Committee ("ACC") Application Fee.** ARTICLE VIII, entitled "ARCHITECTURAL CONTROL," is amended by adding a new Paragraph "7" as follows:

7. The Association may enact an ACC application approval fee in an amount not to exceed \$100.

ITEM 5. Bulk Rate Cable TV / Telecommunication Services. ARTICLE IX, entitled "ASSOCIATION EXPENSES," is amended at Paragraph "2" by adding a new paragraph "N" as follows:

N. BULK RATE CABLE TELEVISION / TELECOMMUNICATION SERVICES. The Association through the Board is authorized to enter into bulk rate contracts for cable, satellite or other television or telecommunication signal distribution systems, including security systems, and charges related thereto shall be an Association expense.

ITEM 6. \$25 Delinquent Assessments Late Fee. ARTICLE XI, entitled "ESTABLISHMENT AND ENFORCEMENT OF LIENS," is amended by adding a new Paragraph "2E" as follows:

2. In the event any owner shall fail to pay assessments or any installment thereof charged to his lot within (15) days after the same becomes due, the Association, through its Board, shall have all of the following remedies to the extent permitted by law.

\* \* \*

1E. To charge a \$25 late fee not to exceed \$25.

ITEM 7. Lease Purchase Approval Fee. ARTICLE XIV, entitled "CONVEYANCES," is amended by adding a new paragraph "6" as follows:

6. The Association may charge a lease or purchase application / approval fee not to exceed \$100.

ORB 5540 Pg 759

LEGAL DESCRIPTION

All of the plat of Bear Island according to the plat thereof  
recorded in Plat Book 57, Pages 55-59, Public Records of Palm  
Beach County, Florida.

EXHIBIT A

RECORD VERIFIED  
PALM BEACH COUNTY, FLA.  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT

Burg &  
DiVosta

# State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of BEAR ISLAND HOMEOWNERS ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on June 17, 1987, as shown by the records of this office.

The document number of this corporation is N21177.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
17th day of June, 1987.



CR2E022 (10-85)

George Firestone  
Secretary of State

ARTICLES OF INCORPORATION  
OF THE  
BEAR ISLAND  
HOMEOWNERS ASSOCIATION. INC.  
(A Florida Corporation Not-For-Profit)

FILED  
1981 JUN 17 PM 1:24  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

In order to form a corporation not-for-profit, under in accordance with Chapter 617 of the Florida Statutes, we, the undersigned hereby associate ourselves into a corporation not-for-profit, for the purpose and with the powers hereinafter set forth and to that end, we do, by these Articles of Incorporation, certify as follows:

ARTICLE I

DEFINITIONS

A. "Articles" shall mean these Articles of Incorporation of Bear Island Homeowners Association, Inc.

B. "Association" shall mean Bear Island Homeowners Association, Inc.

C. "Association Expenses" shall mean the expenses payable by members of the Association as set forth in the Declaration (as defined herein).

D. "Association Property" shall mean all real and personal property transferred to the Association for the benefit of all members.

E. "Bear Island" is the name given to a planned residential community of single family homes to be constructed by Developer in the City of West Palm Beach, Florida. The Plat of Bear Island is recorded in Plat Book \_\_\_\_\_ Pages \_\_\_\_\_, inclusive, of the Public Records of Palm Beach County, Florida.

F. "Bear Island Homeowners Association, Inc." shall mean that certain entity created to manage, maintain, and control the Common Areas of Bear Island. It may also be referred to as the "Homeowners Association" or "HOA".

G. "Board" shall mean the Board of Directors of the Association.

H. "Common Area" shall mean those areas of real property shown on the subdivision plat of Bear Island, together with all improvements thereto, which are devoted to the common use and enjoyment of the members of the Association. The term "Common Area" may sometimes be used interchangeably with the term "Association Property".

I. "Declaration" shall mean the covenants, conditions, restrictions, easements, and all other terms set forth in the Declaration of Covenants and Restrictions for Bear Island, and as may be amended from time to time.

J. "Developer" shall mean and refer to BURG & DIVOSTA CORPORATION, a Florida corporation, its successors and assigns.

K. "Director" shall mean a member of the Board.

L. "General Plan of Development" shall mean the subdivision plat of Bear Island as approved by the appropriate governmental agencies, and which shall represent the development plan and general uses of the real property.

M. "Homeowners Documents" means in the aggregate the Declaration, these Articles, the By-Laws of the Association, the Rules and Regulations of the Association, the Contract for Purchase and Sale of a Lot, the Escrow Agreement, the Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, the Articles of Incorporation and By-Laws of the Villages of Palm Beach Lakes Property Owners Association, Inc., and all of the instruments and documents referred to herein and executed in connection with the general plan of development.

N. "Institutional Mortgagee" shall mean any lending institution having a first lien on a lot, including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state building and loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a federal or state banking association, the Palm Beach County Housing Authority or similar entity, a real estate investment trust, or any mortgage banking company authorized to do business in the State of Florida.

O. "Lot" shall include a residential lot, a single family home constructed thereon, a membership interest in the Association, and in the Villages of Palm Beach Lakes Property Owners Association, Inc. (as defined herein).

P. "Member" shall mean a member of the Association.

Q. "Occupant" shall mean the occupant of a lot who shall be the owner, the lessee, or their respective guest.

R. "Owner" shall mean the fee simple title holder of any lot, whether one or more persons or entities.

S. "Property" shall mean all of the real and personal property subject to the Declaration.

T. "Transfer Date" shall mean the date that the Developer relinquishes the right to appoint a majority of the Directors, and conveys title to the Common Area to the Association. The Transfer Date shall occur 120 days after the Developer has closed the sales of 70% of the 227 lots contemplated by the general plan of development, or three years after the Developer has closed the sale of the first lot, or after the Developer elects to relinquish its control of the Association, whichever shall first occur.

U. "Village of Palm Beach Lakes" shall mean the property platted as the Village of Palm Beach Lakes, Plat No. 1, recorded in Plat Book 41, Pages 174-180, inclusive, Public Records of Palm Beach County, Florida, and the Village of Palm Beach Lakes, Plat No. 2, recorded in Plat Book 44, Pages 1-19, inclusive, Public Records of Palm Beach County, Florida.

V. "Villages of Palm Beach Lakes Property Owners Association" shall mean that certain entity created to manage, maintain, and control the Common Areas of the Village of Palm Beach Lakes. It may also be referred to as the "Villages POA" herein.

## ARTICLE II

### NAME

The name of this Association shall be BEAR ISLAND HOMEOWNERS ASSOCIATION, INC., whose present address is 10385 Ironwood Road, Palm Beach Gardens, Florida 33410.

## ARTICLE III

### GENERAL PLAN OF DEVELOPMENT AND PURPOSE OF ASSOCIATION

A. Developer plans to develop Bear Island on the property described hereinabove. Developer intends that Bear Island shall consist of two hundred twenty seven (227) lots. As set forth in the Plan, Developer also intends to set aside certain common areas in Bear Island. The Association shall ultimately be conveyed ownership of the common areas. Developer further intends that easements shall be established across, over, under and upon the Property, in order to provide means of ingress, egress and for other purposes for the convenience and benefit of Members of the Association, their family members, guests, licensees and invitees and other parties as set forth in the Declaration.

B. The purpose for which the Association is organized is to provide an entity to own, manage, maintain, and operate certain lands located in Bear Island. Said lands are to be used in common by all members of the Association. The Association shall be responsible for the management of the Property in accordance with the terms and conditions of the Declaration, and as same may be amended from time to time.

C. The Association shall make no distribution of income to its members, directors or officers.

## ARTICLE IV

### POWERS

The Association shall have the following powers which shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not-for-profit, which are not in conflict with the terms of these Articles or the Declaration.

B. The Association shall have all of the powers and duties set forth in the Declaration, except as limited by these Articles, and all powers and duties reasonably necessary to operate and administer Bear Island properties pursuant to the Declaration, including but not limited to the following:

1. To make and collect assessments against members to defray the costs and expenses of the Association property.

2. To use the proceeds of assessments in the exercise of its powers and duties.

3. To own, maintain, repair, replace, operate and convey the property of the Association in accordance with the Declaration.

4. To purchase insurance upon the property of the Association and insurance for the protection of the Association and its members, in an amount equal to the maximum insurance replacement value, excluding foundation and excavation costs.

5. To dedicate or to transfer all or any part of the Association's property to any public agency, authority, or utility for such purposes and subject to such conditions as may be approved by not less than fifty-one percent (51%) of the membership of the Association, and approved by not less than seventy-five percent (75%) of the institutional mortgagees holding mortgages encumbering the lots.

6. To reconstruct the improvements to the Association's property after casualty, and to further improve the Association's properties, as provided in the Declaration.

7. To make and amend reasonable rules and regulations regarding the use of the property of the Association, provided that notice of the proposed modification, addition or deletion to the Rules and Regulations is sent by U. S. Certified Mail, return receipt requested, to each member of the Association at least thirty (30) days before the proposed modification, addition or deletion becomes effective.

8. To contract for the management of the Association property and to delegate to such contractors all powers and duties of the Association except such as are specifically required by the Declaration to have the approval of the Board or the membership of the Association. Any such contract may not exceed three (3) years, and must

provide for termination by either party without cause and without payment of a termination fee on sixty (60) days written notice.

9. To employ personnel for reasonable compensation to perform the services required for proper operation and administration of the Association property.

10. To enforce by legal means the provisions of the Declaration, these Articles, the By-Laws of the Association, and the Rules and Regulations for the use of the Association's property as same may be promulgated, modified, or amended from time to time by the Association.

11. To pay taxes and assessments, which are liens against any part of the Association's property.

12. To pay the cost of all power, water, sewer, waste collection, and other utility services rendered to the property of the Association, and not billed to owners of individual lots.

13. To enter any lot at a reasonable time and upon reasonable notice to make emergency repairs, to avoid waste, or to do such other work reasonably necessary for the proper protection, preservation, or maintenance of the property of the Association.

14. To grant such permits, licenses, and easements over the common areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the common areas.

15. To collect from members, assessments which are made and levied by the Villages of Palm Beach Lakes Property Owners Association.

16. To do such other things as may be necessary in order to perform the duties and to exercise the powers provided for the Association in the Declaration.

C. The Association shall not have the power to purchase a lot in Bear Island except at sales in the foreclosure of lien for assessments for Association expenses, at which sales the Association shall bid not more than the amount secured by its lien.

D. All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles, and the By-Laws of the Association.

## ARTICLE V

### MEMBERS

A. The members of the Association shall consist of all of the record owners of lots in Bear Island.

B. Change of membership in the Association shall be established by recording in the Public Records of Palm Beach County, Florida, a deed or other instrument establishing a record title to a lot at Bear Island, and the delivery to the Association of a copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated as of the date of execution of such instrument.

C. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except upon transfer of title of his lot.

D. The owner of each lot shall be entitled to one vote as a member of the Association. The exact number of votes to be cast by lot owners and the manner of exercising voting rights, shall be determined by the By-Laws of the Association; subject, however, to the terms and conditions of the Declaration.

## ARTICLE VI

### TERM

The term for which this Association is to exist shall be perpetual.

## ARTICLE VII

### INCORPORATORS

The names and residences of the Incorporators to these Articles are as follows:

| NAME                | ADDRESS                                              |
|---------------------|------------------------------------------------------|
| Charles H. Hathaway | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |
| Robert S. Kairalla  | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |
| William E. Shannon  | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |

## ARTICLE VIII

### OFFICERS

A. The affairs of the Association shall be managed by a President, one (1) or several Vice Presidents, a Secretary and a Treasurer and, if elected by the Board, as Assistant Secretary and an Assistant

Treasurer, which officers shall be subject to the directions of the Board.

B. The Board shall elect the President, the Vice President, the Secretary and the Treasurer, and as many other Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine appropriate. Such officers shall be elected annually by the Board at the first meeting of the Board following the "Annual Members' Meeting" (as described in the By-Laws); provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such officers in the manner provided in the By-Laws. The President shall be a Director of the Association, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, the offices of President and Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary or Assistant Secretary.

## ARTICLE IX

### FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

|                |                     |
|----------------|---------------------|
| President      | Charles H. Hathaway |
| Vice President | Robert S. Kairalla  |
| Secretary      | William E. Shannon  |
| Treasurer      | William E. Shannon  |

## ARTICLE X

### BOARD OF DIRECTORS

A. The affairs of the Association will be managed by a Board consisting of not less than three (3) nor more than five (5) Directors. After the Developer elects to divest itself of control of the Association, Directors must be members of the Association.

B. After the Transfer Date, members of the Board shall serve for a term of two (2) years; provided, however, that two (2) members of the Board elected on the Transfer Date shall serve for an initial term of one (1) year, and the other member(s) of the Board elected on the Transfer Date shall serve for an initial term of two (2) years. Thereafter, the terms of no more than three (3) Board members will expire each year.

C. Directors of the Association shall be elected at the Annual Members' Meeting in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the By-Laws.

D. The first election of Directors shall not be held until 120 days after the Developer has closed the sales of 70% of the 227 lots contemplated under the general plan of development, or three years after the Developer has closed the sale of the first lot in Bear Island or until the Developer elects to terminate control of the Association, whichever shall first occur. The Directors named in these Articles shall serve until the first election of Directors, and any vacancies in their number occurring before the first election shall be filled by the remaining Directors.

E. The names and addresses of the persons who are to serve as the first Board are as follows:

| NAME                | ADDRESS                                              |
|---------------------|------------------------------------------------------|
| Charles H. Hathaway | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |
| Robert S. Kairalla  | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |
| William E. Shannon  | 10385 Ironwood Road<br>Palm Beach Gardens, Fl. 33410 |

## ARTICLE XI

### INDEMNIFICATION

Every Director and every officer of the Association (and the Directors and/or officers as a group) shall be indemnified by the Association against all expenses and liabilities, including counsel fees (at all trial and appellate levels and whether or not suit be instituted) reasonably incurred by or imposed upon him or them in connection with any proceeding, litigation or settlement in which he may become involved by reason of his being or having been a Director or officer of the Association. The foregoing provisions for indemnification shall apply whether or not he is a Director or officer at the time such expenses and/or liabilities are incurred. Notwithstanding the above, in the event of a settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement and authorizes reimbursement for the costs and expenses of the settlement as in the best interest of the Association. In instances where a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer may be entitled whether by statute or common law.

## ARTICLE XII

### BY-LAWS

The By-Laws of the Association shall be adopted by the first Board and thereafter may be altered, amended or rescinded by the affirmative vote of not less than a majority of the Members present at an Annual Members' Meeting or special meeting of the Membership and the affirmative approval of a majority of the Board at a regular or special meeting of the Board.

## ARTICLE XIII

### AMENDMENTS

A. Prior to the recording of the Declaration amongst the Public Records of Palm Beach County, Florida, these Articles may be amended only by an instrument in writing signed by all of the Incorporators to these Articles and filed in the Office of the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended, give the exact language of such amendments, and a certified copy of each such amendment shall always be attached to any certified copy of these Articles.

B. After the recording of the Declaration amongst the Public Records of Palm Beach County, Florida, these Articles may be amended in the following manner:

1. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting (whether of the Board or of the Membership) at which such proposed amendment is to be considered; and

2. A resolution approving the proposed amendment may be first passed by either the Board or the Membership. After such approval of a proposed amendment by one of said bodies, such proposed amendment must be submitted to and approved by the other of said bodies. Approval by the Membership must be by a vote of a majority of the Members present at a meeting of the Membership at which a quorum is present and approval by the Board must be by a majority of the Directors present at any meeting of the Directors at which a quorum is present.

C. No Article shall be revised or amended by reference to its title or number only. Proposals to amend existing Articles shall contain the full text of the Articles to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial re-

wording of Article. See Article \_\_\_\_\_ for present text." Non-material errors or omissions in the Article amendment process shall not invalidate an otherwise properly promulgated amendment.

D. No amendment may be made to the Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

E. Notwithstanding the foregoing provisions of this Article, there shall be no amendment to these Articles which shall abridge, amend or alter the priority of any Mortgagee, or the validity of any mortgage held by such Mortgagee without the prior written consent therefor by such Mortgagee; or abridge, amend or alter the rights of Developer, including the right to designate and select the Directors as provided herein, without the prior written consent therefor by Developer.

IN WITNESS WHEREOF, the Incorporators have hereunto affixed their signatures, this 10<sup>th</sup> day of June, 1987.

Charles H. Hathaway  
Charles H. Hathaway

Robert S. Kairalla  
Robert S. Kairalla

William E. Shannon  
William E. Shannon

STATE OF FLORIDA       )  
                                  :  
COUNTY OF PALM BEACH )

I HEREBY CERTIFY that on this day, before me a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared CHARLES H. HATHAWAY, ROBERT S. KAIRALLA and WILLIAM E. SHANNON, to me known to be the persons described as Incorporators in and who executed the foregoing Articles of Incorporation and they acknowledged before me that they executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, the Incorporators have hereunto affixed their signatures, this 10<sup>th</sup> day of June, 1987.

Randee S. Kaplan  
Notary Public

My Commission Expires:

Notary Public State of Florida at Large  
My Commission Expires October 23, 1988  
Bonded Thru Cornelius, Johnson & Clark, Inc.

CERTIFICATE DESIGNATING A REGISTERED OFFICE AND  
A REGISTERED AGENT FOR THE SERVICE OF PROCESS  
WITHIN THE STATE OF FLORIDA

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted, in compliance with said Act:

BEAR ISLAND HOMEOWNERS ASSOCIATION, INC., desiring to organize under the laws of the State of Florida, with its principal office, as indicated in the Articles of Incorporation, at the City of Palm Beach Gardens, County of Palm Beach, State of Florida, has named CHARLES H. HATHAWAY located at 10385 Ironwood Road, City of Palm Beach Gardens, County of Palm Beach, State of Florida, as its agent to accept service of process within the State of Florida.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above stated corporation, at the place designated in this certificate, I hereby agree to act in this capacity, and agree to comply with the provision of the Act relative to keeping open said office.

BY: Charles H. Hathaway  
Charles H. Hathaway

FILED  
JUN 17 PM 1:24  
TALLAHASSEE, FLORIDA  
SECRETARY OF STATE

BY-LAWS OF BEAR ISLAND  
HOMEOWNERS ASSOCIATION, INC.

Section 1. Identification of Association.

These are the By-Laws of BEAR ISLAND HOMEOWNERS ASSOCIATION, INC. (Association"), as duly adopted by its Board of Directors. The Association is a corporation not-for-profit, organized pursuant to Chapter 617, Florida Statutes, for the purpose of managing, operating, and administering the development known as the "Bear Island" (the "Development").

1.1 The office of the Association shall be for the present at 10385 Ironwood Road, Palm Beach Gardens, Florida, and thereafter may be located at any place designated by the Board of Directors (the "Board").

1.2 The fiscal year of the Association shall be the calendar year.

1.3 The seal of the corporation shall bear the name of the corporation, the word "Florida" and the words "Corporation Not-For Profit".

Section 2. Definitions.

All terms shall have the meanings set forth in the Articles of Incorporation of the Association ("Articles"). All terms defined in the Articles shall be in quotation marks with initial capital letters the first time that such term appears in these By-Laws.

Section 3. Membership; Members' Meetings; Voting and Proxies.

3.1 The qualification of "Members", the manner of their admission to "Membership" and the termination of such Membership shall be as set forth in Article V of the Articles.

3.2 The Members shall meet annually at the office of the Association at such time in the month of March of each year as the Board may determine (the "Annual Members' Meeting"). The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (subject to the provisions of Article X of the Articles) and transact any other business authorized to be transacted by the Members.

3.3 Special meetings of the Membership shall be held at any place within Palm Beach County, Florida, whenever called by the President or Vice President or by a majority of the Board. A special meeting must be called by the President or Vice President upon receipt of a written request from one-tenth (1/10) of the entire Membership.

3.4 A written notice of all meetings of Members (whether the Annual Members' Meeting or special meetings) shall be given to each Member at his last known address as it appears on the books of the Association and shall be mailed to the said address not less than fourteen (14) days nor more than sixty (60) days prior to the date of the meeting. The post office certificate of mailing shall be retained as proof of such mailing. The notice shall state the time and place that the meeting of Members is to take place, and the object for which the meeting is called. The notice shall be signed by an officer of the Association. Notice of any meeting may be waived by any Member before, during or after such meeting or by the person entitled to vote pursuant to a proxy. Said waiver shall be in writing and shall set forth the waiver of written notice.

3.5 The Membership may, at the discretion of the Board, act by written agreement in lieu of a meeting, provided written notice of the matter or matters to be agreed upon is given to the Membership at the addresses and within the time periods set forth in Section 3.4 herein or duly waived in accordance with such Section. The decision of the majority of the Membership (as evidenced by written response to be solicited in the notice) shall be binding on the Membership, provided a quorum of the Membership submits a response. The notice shall set forth a time period during which time a response must be made by a Member.

3.6 A quorum of the Membership shall consist of one-third (1/3) of those persons entitled to cast the votes of the entire Membership. A Member may join in the action of a meeting by signing and concurring in the minutes thereof and such a signing shall constitute the presence of such parties for the purpose of determining a quorum. When a quorum is present at any meeting and a question which raises the jurisdiction of such meeting is presented, the holders of a majority of the voting rights present in person or represented by written "Proxy" (as hereinafter defined) shall be required to decide the question. However, if the question is one upon which, by express provision of the Declaration, requires a vote other than the majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

3.7 If any meeting of the Membership cannot be organized because a quorum is not in attendance, the Members who are present, either in person or by Proxy, may adjourn the meeting from time to time until a quorum is present. In the case of the meeting being postponed, the notice provisions for the adjournment shall be as determined by the Board.

3.8 Minutes of all meetings shall be kept in a businesslike manner and available for inspection by the Members and "Directors" at all reasonable times.

3.9 Voting rights of Members shall be as stated in the Declaration and the Articles. Such votes may be cast in person or by Proxy. "Proxy" is defined to mean an instrument

containing the appointment of a person who is substituted by a Member to vote for him and in the Member's place and stead. Proxies shall be in writing and shall be valid only for the particular meeting designated therein and any adjournments thereof if so stated. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. A Proxy must be filed with the Secretary before the appointed time of the meeting in order to be effective. Any Proxy may be revoked prior to the time a vote is cast according to such Proxy.

3.10 At any time prior to a vote upon any matter at a meeting of the Membership, any Member may demand the use of a secret written ballot for the voting on such matter.

3.11 No member shall be allowed to exercise his vote or serve as a Director unless he is current on all assessments.

3.12 The order of business at Annual Members' Meetings and, as far as practical at other Members' Meetings, shall be:

1. Election of chairman of the meeting.
2. Calling of the roll and certifying of proxies.
3. Proof of notice of meeting or waiver of notice.
4. Reading and disposal of any unapproved minutes.
5. Report of officers.
6. Reports of committees.
7. Election of inspectors of elections.
8. Election of directors.
9. Unfinished business.
10. New business.
11. Adjournment.

#### Section 4. Board of Directors; Directors' Meetings.

4.1 The form of administration of the Association shall be by a Board of not less than three (3) nor more than five (5) Directors. The Board shall determine the number of directorships for the succeeding year at the Board meeting prior to the Annual Members' Meeting.

4.2 The provisions of the Articles setting forth the selection, designation, election and removal of Directors are hereby incorporated herein by reference.

4.3 Subject to Section 4.5 below and the rights of the "Developer" as set forth in the Articles and as set forth in Section 4.5(c) below, vacancies on the Board shall be filled by person(s) selected by the remaining Directors. Such person shall be a Director and have all the rights, privileges, duties and obligations as a Director elected at the Annual Members' Meeting and shall serve for the term prescribed in Section 4.4 of these By-Laws.

4.4 The term of each Director's service shall extend until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided herein.

4.5 (a) A Director elected by the Membership may be removed from office upon the affirmative vote or the agreement in writing of a majority of the Members at a special meeting of the Members for any reason deemed by the Members to be in the best interest of the Association. A meeting of Members to so remove a Director elected by them shall be held, subject to the notice provisions of Section 3.4 hereof, upon the written request of ten percent (10%) of the Members. However, before any Director is removed from office, he shall be notified in writing at least two (2) days prior to the meeting at which the motion to remove him will be made, and such Director shall be given an opportunity to be heard at such meeting, should he be present, prior to the vote on his removal.

(b) The Members shall elect, at a special meeting or at the Annual Members' Meeting, persons to fill vacancies on the Board caused by the removal of a Director elected by the Members pursuant to Section 4.5(a) above.

(c) A Director designated by the Developer as provided in the Articles may be removed only by the Developer in its sole discretion and without any need for a meeting or vote. The Developer shall have the unqualified right to name a successor for any Director designated and thereafter removed by it or for any vacancy on the Board as to a Director designated by it, and the Developer shall notify the Board as to any such removal or vacancy and the name of the successor Director and of the commencement date for the term of such successor Director.

4.6 The organizational meeting of the newly elected Board shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. No further notice of the organizational meeting shall be necessary, providing that a quorum shall be present at such organizational meeting.

4.7 Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of Directors. Special meetings of the Board may be called at the discretion of the President or the Vice President of the Association. Special meetings must be called by the Secretary at the written request of not less than one-third (1/3) of the Directors.

4.8 Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day specified for such meeting. Notice of any meeting where assessments against Members are to be considered for any reason shall specifically contain a statement

that assessments will be considered and the nature of any such assessments. Any Director may waive notice of the meeting before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.9 A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as specifically provided otherwise in the Declaration, Articles or elsewhere herein. If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted. In the case of the meeting being postponed, the notice provisions for the adjournment shall be as determined by the Board.

4.10 The presiding officer at Board meetings shall be the President. In the absence of the President, the Directors present shall designate any one of their number to preside.

4.11 Directors shall not receive any compensation for their services.

4.12 Minutes of all meetings shall be kept in a businesslike manner and shall be available for inspection by Members and Directors at all reasonable times.

4.13 Meetings of the Board shall be open to all Members. Unless a Member serves as a Director or unless he has been specifically invited by the Directors to participate in the meeting, the Member shall not be entitled to participate in the meeting, but shall only be entitled to act as an observer. In the event a Member not serving as a Director or not otherwise invited by the Directors to participate in the meeting attempts to become more than a mere observer at the meetings or conducts himself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he is a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting.

#### Section 5. Powers and Duties of the Board of Directors.

All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall be exercised in accordance with the Declaration and shall include, but not be limited to, the following:

5.1 Making and collecting Assessments against Members to defray the costs of "Association Expenses". These Assessments shall be collected by the Association through payments made directly to it by the Members as set forth in the Declaration.

5.2 Using the proceeds of Assessments in the exercise of the powers and duties of the Association and the Board.

5.3 Maintaining, repairing and operating the Association Property and the Common Areas.

5.4 Reconstructing improvements after casualties and losses and making further authorized improvements on the Common Areas and the Recreation Areas.

5.5 Making and amending rules and regulations with respect to the use of the Association Property and the Common Areas.

5.6 Enforcing by legal means the provisions of the Homeowners Documents.

5.7 Contracting for the management and maintenance of the Association Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Association Property with funds that shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration including but not limited to the making of assessments, promulgation of rules and execution of contracts on behalf of the Association.

5.8 Paying taxes and assessments which are or may become liens against the Common Areas and lots owned by the Association, if any, and assessing the same against lots which are or may become subject of such liens.

5.9 Purchasing and carrying insurance for the protection of homeowners and the Association against casualty and liability which may occur on the Association Property and the Common Areas.

5.10 Paying costs of all power, water, sewer and other utility services rendered to the Association Property.

5.11 Hiring and retaining such employees as are necessary to administer and carry out the services required for the proper administration and purposes of the Association and paying all salaries therefor.

5.12 Granting such permits, licenses, and easements over the common areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the common areas.

5.13 Purchasing and carrying fidelity bonds on all officers and Directors who control or disburse funds of the Association in such amounts as are more fully described in the Declaration.

#### Section 6. Officers of the Association.

6.1 Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer, a Secretary and, if the Board so determines, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board shall, from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

6.2 The President, who shall be a Director, shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of a corporation not-for-profit including, but not limited to, the power to appoint committees from among the Members at such times as he may, in his discretion, determine appropriate to assist in conducting the affairs of the Association. He shall preside at all meetings of the Board and the Membership.

6.3 In the absence or disability of the President, a Vice President shall exercise the powers and perform the duties of the President. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First", "Second", etc. and shall exercise the powers and perform the duties of the Presidency in such order.

6.4 The Secretary shall cause to be kept the minutes of all meetings of the Board and the Membership, which minutes shall be kept in a businesslike manner and shall be available for inspection by Members and Directors at all reasonable times. He shall have custody of the seal of the Association and shall affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary.

6.5 The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform

all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer whenever the Treasurer is absent and shall otherwise assist the Treasurer.

6.6 Officers shall not receive compensation for their services. The compensation, if any, of all other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director or an officer as an employee of the Association or preclude the contracting with a Director or an officer for the management of the Association.

#### Section 7. Accounting Records; Fiscal Management.

7.1 The Association shall maintain accounting records according to good accounting practices which shall be open to inspection by Members or their authorized representatives at reasonable times. Authorization of a representative of a Member must be in writing, signed by the Member giving the authorization and dated within sixty (60) days of the date of the inspection. Written summaries of the accounting records shall be prepared at least annually. Such records shall include: (a) a record of all receipts and expenditures; (b) an account for each lot which shall designate the name and address of the Owner, the amount of each Assessment charged to the lot, the amounts and due dates for each Assessment, the amounts paid upon the account and the balance due; and (c) an account indicating the Association Expenses allocated under the budget of the Association ("Budget") and the Association Expenses actually incurred during the course of the fiscal year.

7.2 (a) The Board shall adopt a Budget for the Association Expenses for each forthcoming fiscal year at a special meeting of the Board ("Budget Meeting") called for that purpose during the first two (2) weeks of November of every calendar year. Prior to the Budget Meeting a proposed budget shall be prepared by or on behalf of the Board and may include, but not be limited to, the following items, if applicable:

- (i) Administration of the Association
- (ii) Insurance and bonding fees
- (iii) Management fees
- (iv) Maintenance
- (v) Taxes upon Association property
- (vi) Other expenses
- (vii) Operating capital

Copies of the proposed Budget prepared prior to the Budget Meeting and notice of the exact time and place of the Budget Meeting shall be mailed to each Member at the Member's last known address as reflected on the books and records of the Association on or before thirty (30) days prior to said Budget Meeting, and the Budget Meeting shall be open to the Membership.

(b) In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any income received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar years on a pro rata basis any expenses which are prepaid in any one calendar year for Association Expenses which cover more than a calendar year; (iv) Assessments shall be made not less frequently than quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Association expenses and for all unpaid Association expenses previously incurred; (v) Association Expenses incurred in a calendar year shall be charged against income for the same calendar year, regardless of when the bill for such Association Expenses is received. Assessments shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting. The Association shall employ a method of accounting which shall conform to generally accepted accounting standards and principles.

(c) The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

(d) No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Association Expenses not included in the Budget or which shall exceed budgeted items, and no Board shall be required to engage in deficit spending. Should there exist any deficiency which results from there being greater Association Expenses than income from Assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of a special Assessment to be levied by the Board.

7.3(a) Should the Budget adopted by the Board at the Budget Meeting require Assessments against all the Membership of an amount which is less than 115% of such Assessments for the prior year, the Budget shall be deemed approved by all Members. If, however, the Assessments required to meet the Budget exceed 115% of such Assessments for the Membership for the preceding year (the "Excess Assessment"), then the provisions of Subsection 7.3(b) hereof shall be applicable. There shall be excluded in the computation of the Excess Assessment certain expenses (the "Excluded Expenses") as follows:

- (i) Expenses of the Association which are not anticipated to be incurred on a regular or annual basis; and
- (ii) Assessments for betterments to the Association Property.

(b) Should the Excess Assessment be adopted by the Board then upon written application requesting a special meeting signed by ten percent (10%) or more of the Members and delivered to the Board within twenty (20) days after the Budget Meeting, the Board shall call a special meeting to be held upon not less than ten (10) days written notice to the Members, but within thirty (30) days of the delivery of such application to the Board. At said special meeting, the Members may consider and enact a revision of the Budget. The enactment of a revision of the Budget shall require approval of not less than two-thirds ( $2/3$ ) of the Members. If a revised Budget is enacted at said special meeting, then the revised Budget shall be the final Budget, or if a revised Budget is not enacted at the special meeting, then the Budget originally adopted by the Board shall be the final Budget. If no written application is delivered as provided herein, then the Budget originally adopted by the Board shall be the final Budget.

#### 7.4 Allocation of Association Expenses and Determination of Annual Assessment.

(a) The Budget constitutes an estimate of the expenses of the Association. The Board shall allocate a portion of the Budget to each lot and the result shall constitute the Annual Assessment for such lot. Expenses of the Association which are applicable to more than one lot (such as administrative expenses) shall be allocated by the Board amongst the several lots to which such is applicable by multiplying such expenses by a fraction, the numerator of which is the number of lots to which such expense is being allocated and the denominator of which is the total number of lots in Bear Island to which such expenses are applicable.

(b) Notwithstanding the allocation to each lot of its Annual Assessment, a Member shall also be liable for any Special Assessments levied by the Board against his lot as provided in the Declaration. The Association shall collect Annual and Special Assessments from a Member in the manner set forth in the Declaration.

#### Section 8. Rules and Regulations.

8.1 The Board may adopt reasonable rules and regulations or amend or rescind existing rules and regulations governing the use and operation of the common elements, common areas, and recreation areas serving the Association, providing such rules and regulations are not inconsistent with the Declaration.

8.2 Notice of the proposed adoption, amendment, modification, or rescission must be posted in a conspicuous place on the Association property, and a copy must be sent to each Member at least thirty (30) days before the proposed rule, regulation, amendment, modification or rescission becomes effective. In the case of an emergency, a proposed rule shall

be effective immediately upon posting and delivery. Any mailing to a Member shall be sent to the last known address as shown on the books and records of the Association.

8.3 The Board may not unreasonably restrict any Member's right to peaceably assemble or the right to invite public officers or candidates to appear and speak in the common elements, common areas, and recreation areas.

8.4 Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness, and peace of mind of the Members and uniformly applied and enforced.

#### Section 9. Parliamentary Rules.

The then latest edition of Robert's Rules of Order shall govern the conduct of meetings of the Association when not in conflict with the Articles, these By-Laws, or the Declaration. In the event of such a conflict, the provisions of the Declaration shall govern.

#### Section 10. Amendments of the By-Laws.

10.1 These By-Laws may be amended by the affirmative vote of not less than a majority of the Members present at an Annual Members' Meeting or special meeting of the Membership and the affirmative approval of a majority of the Board at a regular or special meeting of the Board. A copy of the proposed amendment shall be sent to each Member along with notice of the Annual Members' Meeting or special meeting. An amendment may be approved at the same meeting of the Board and/or Membership at which such amendment is proposed.

10.2 No By-Law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial re-wording of By-Law. See By-Law \_\_\_\_\_ for present text." Nonmaterial errors or omissions in the By-Law amendment process shall not invalidate an otherwise properly promulgated amendment.

10.3 An amendment may be proposed by either the Board or by the Membership, and after being proposed and approved by one of such bodies, must be approved by the other as set forth above in order to become enacted as an amendment.

10.4 No modification or amendment to these By-Laws shall be adopted which would affect or impair the priority of any Mortgagee, the validity of the mortgage held by such Mortgagee, or any of the rights of the Developer.

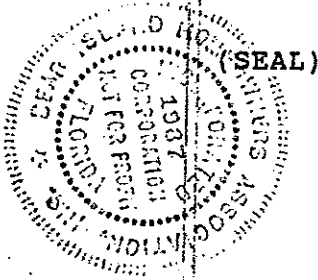
Section 11. Arbitration.

Internal disputes arising from the operation of the Association among Owners, the Board, or their agents and assigns may be resolved by voluntary binding arbitration. Any party to such an arbitration may seek enforcement of the final decision of the arbitrator in a court of competent jurisdiction.

BEAR ISLAND HOMEOWNERS ASSOCIATION,  
INC.

By: Charles H. Hackaway, Pres.

Attest: Willie E. Sherman, Sec.



SPECIAL WARRANTY DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_, between BURG & DIVOSTA CORPORATION, a Florida corporation, whose principal office is located at 10358 Riverside Drive, Palm Beach Gardens, Florida 33410, hereinafter referred to as "Grantor", and \_\_\_\_\_, whose post office address is \_\_\_\_\_, State of \_\_\_\_\_, hereinafter referred to as "Grantee".

WITNESSETH

That Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration to it in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained, conveyed and sold to Grantee and Grantee's heirs and assigns forever, the following described real property situated, lying and being in Palm Beach County, Florida, to-wit:

Lot \_\_\_\_\_, BEAR ISLAND according to the plat thereof, recorded in Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, Public Records of Palm Beach County, Florida.

Grantee, by acceptance hereof, and by agreement with Grantor, hereby expressly assumes and agrees to be bound by and to comply with all of the covenants, terms, conditions and provisions set forth and contained in the Declaration of Covenants and Restrictions for Bear Island, and in the Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, including, but not limited to, the obligation to pay assessments for the maintenance and operation of the Bear Island Homeowners Association, Inc., and the Villages of Palm Beach Lakes Property Owners Association, Inc.

This conveyance is made subject to the following:

1. Real estate taxes for the year 19\_\_\_\_ and subsequent years;
2. Applicable zoning regulations and ordinances;
3. All of the covenants, conditions, restrictions and easements of record, if any, which may now affect the aforescribed property, and
4. Perpetual easement for encroachments now existing or hereafter existing caused by the settlement or movement of improvements or caused by minor inaccuracies in building or rebuilding.

TO HAVE AND TO HOLD, the above granted, bargained and described premises in fee simple forever.

And Grantor, for itself and for its successors and assigns, does hereby covenant with Grantee that it will defend the same against the lawful claims of all persons claiming by, through or under the Grantor.

Signed, Sealed and Delivered  
in the Presence of:

BURG & DIVOSTA CORPORATION

By: \_\_\_\_\_

Attest: \_\_\_\_\_  
(SEAL)

STATE OF FLORIDA     )  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_ by \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ of BURG & DIVOSTA CORPORATION, a  
Florida corporation, on behalf of the corporation.

Notary Public  
My Commission Expires:

Burg &  
DiVosta

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS CONTRACT AND THE OTHER HOMEOWNER DOCUMENTS FOR CORRECT REPRESENTATIONS.

CONTRACT FOR PURCHASE AND SALE  
OF A LOT IN

BEAR ISLAND

THIS CONTRACT is made between BURG & DIVOSTA CORPORATION, a Florida corporation, with its principal office at 10358 Riverside Drive, Palm Beach Gardens, Florida 33410 (hereinafter called "Seller" or "Developer"), and the "Purchaser" whose name and address are set forth fully on Schedule "A" attached hereto and made a part hereof.

WITNESSETH:

Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the lot hereinafter described for the price and on the terms and conditions now about to be set forth.

I LOT

Purchaser agrees to buy the lot described in Schedule A. The lot shall include a residential lot, a single family home, and a membership interest in the Bear Island Homeowners Association, Inc., and in the Villages of Palm Beach Lakes Property Owners Association, Inc., in accordance with and subject to the "Homeowners Documents" (as hereinafter defined). If the plat on which the lot is located has not been recorded on the date of this contract, then the term "plat" shall mean the proposed plat which will be substantially similar to the Property Plan or Site Plan.

II PURCHASE PRICE

A. The Purchase Price and the manner of payment are described in Schedule A.

B. Cash Closing Provisions. If the Purchaser intends to pay the Purchase Price in cash at the time of closing without third party financing, this provision will be checked. The cash closing Purchaser will be entitled to a credit of One Thousand Dollars (\$1,000.00) on the date of closing, provided however that the closing occurs on the closing date scheduled by the Seller. If the cash closing Purchaser does not close on the closing date scheduled by the Seller pursuant to Article IV hereof, or if he originally selected a mortgage as his manner of payment in Schedule A, then he shall not be entitled to the credit described above.

### C. Mortgage Provisions

1. Use of Mortgage Loan. These provisions apply to a Purchaser who intends to pay for a portion of the Purchase Price by obtaining a conventional mortgage loan ("Mortgage Loan"), in an amount not in excess of ninety percent (90%) of the purchase price described in Schedule A, from a bona fide lending institution (hereinafter referred to as "Mortgagee"). A conventional mortgage loan is defined as a loan not insured or guaranteed by the Veteran's Administration (VA) or the Federal Housing Administration (FHA).

(a) Designated Mortgagee. If the Purchaser obtains the mortgage described in Schedule A to finance the purchase of the lot from the Mortgagee designated in Schedule A, i.e. First Federal Savings and Loan Association of the Palm Beaches and such mortgage is not in excess of ninety percent (90%) of the purchase price, then the purchase price shall include the mortgage costs described in Article VIII (D) (i) hereof; less any prorations or prepayments of interest, taxes, insurance, or maintenance which may be required or appropriate in connection with closing the Mortgage Loan. The purchaser agrees that in order for the purchase price to include the mortgage closing costs, the Purchaser must comply with and perform the "Mortgage Loan Acts" described below. If the Purchaser fails to perform any of the Mortgage Loan Acts within ten (10) days of the Designated Mortgagee's written request for compliance, or if the Purchaser fails to close on the closing date scheduled pursuant to Article IV hereof, the Purchaser understands and agrees that the purchase price shall not include the mortgage closing costs.

(b) Other Mortgagee. If a Mortgagee other than the designated Mortgagee is used, Seller shall not pay the mortgage closing costs.

(c) Time to Make Application. Purchaser shall complete an application for the mortgage loan within ten (10) days of the execution of this Contract by Purchaser. Failure to complete said application within said period shall be deemed a Purchaser default.

(d) Mortgage Loan Acts. Purchaser agrees to perform all of the following acts (hereinafter referred to as the "Mortgage Loan Acts"): (i) to make application for the Mortgage Loan within the time period set forth in subparagraph (c) above; (ii) to use his best efforts to obtain the Mortgage Loan in good faith; (iii) to promptly execute all necessary documents and disclose all information; (iv) to promptly and duly comply with all requests of Mortgagee and Seller to apply for and close the Mortgage Loan; and (v) to take such actions as are reasonably necessary for obtaining the mortgage loan. Purchaser agrees that the Mortgagee may release to Seller information regarding the status and progress of Purchaser's loan application.

2. Failure to Obtain Mortgage Loan. In the event Purchaser, having undertaken and performed the Mortgage Loan Acts, fails to qualify or is otherwise declined by the Mortgagee for a Mortgage Loan in the amount specified in Schedule A; or if the Purchaser fails to obtain a commitment for mortgage financing from the Mortgagee, chosen by Purchaser (if Purchaser chooses a Mortgagee other than the Designated Mortgagee), within 55 days of the date of acceptance hereof, then the parties agree that Seller shall return the deposit paid to it. Upon the return of such deposit, the parties hereto shall be relieved of all further rights and obligations hereunder.

3. Default by Purchaser in Mortgage Loan Acts. In the event that the Seller ascertains that the Purchaser has failed to qualify for a Mortgage Loan due to the failure to perform any of the Mortgage Loan Acts, such an event shall constitute a default by Purchaser hereunder entitling Seller to retain all sums paid hereunder as set forth in Article V herein.

4. Refundability of Deposit Monies. Notwithstanding anything to the contrary contained herein, Purchaser specifically agrees that once mortgage approval has been obtained by Purchaser from a Mortgagee, the deposit monies paid by Purchaser to Seller shall no longer be refundable unless Seller is in default hereunder, notwithstanding the subsequent disapproval of Purchaser by that Mortgagee, if such subsequent disapproval is caused by or results from the willful or intentional actions of Purchaser.

### III HOMEOWNERS DOCUMENTS

Purchaser acknowledges that prior to the execution of this Contract, he has received homeowners documents, including the Declaration of Covenants and Restrictions for Bear Island (the "Declaration"), the Articles of Incorporation of the Bear Island Homeowners Association, Inc. (the "Association"), the By-Laws of the Association, the Rules and Regulations of the Association, Villages of Palm Beach Lakes Declaration of Covenants and Restrictions, the Articles of Incorporation and the By-Laws of the Villages of Palm Beach Lakes Property Owners Association, Inc., the typical Special Warranty Deed, the form of Contract for Purchase and Sale, the Property Plan or Site Plan, the Designation Plan or Detailed Site Plan, the Escrow Agreement, and a legal description. The foregoing documents shall be hereinafter collectively referred to as the "Homeowners Documents". Purchaser agrees that the Homeowners Documents may be changed or amended, if necessary, to meet the requirements of a mortgagee, public authority, or title insurance company, or if such change is in the best interest of the Association, as Seller, in its sole discretion, may determine. It is understood and agreed, however, that no changes or amendments will be made which would either alter or modify in a material manner the offering of the lot or materially affect the rights of Purchaser or the value of the lot without obtaining the approval of

Purchaser. In the event the Purchaser does not so approve, Purchaser shall be entitled to terminate this Contract and receive a refund of all monies paid to Seller hereunder. Purchaser shall not have the right to prevent the Seller from amending any of the foregoing Homeowners Documents. Purchaser agrees to be bound by the terms of the Homeowners Documents, to acquire the lot subject thereto and to execute any documents required to implement the same. In the event that Purchaser is declined for mortgage financing and this contract is terminated, or if this contract is otherwise terminated by the agreement of the parties, Purchaser agrees to return the Homeowners Documents to Seller in good and usable condition. The Purchaser agrees that if he fails to return the Homeowners Documents in good and usable condition, that the sum of \$100.00 shall be deducted from his deposit prior to its return to him.

#### IV CLOSING

It is mutually agreed that the closing of this Contract (the "Closing") shall be held on either of the following dates: (a) within 45 days from the date of approval of this Contract by Seller, if this Contract is signed after the "Completion Date", the date of issuance of a certificate of occupancy for the single family home; or (b) on the Completion Date. The expected Completion Date is set forth on Schedule A. The actual Completion Date, and therefore the closing date, may be as much as 90 days before, or 90 days after, the expected Completion Date. If this Contract is signed after the Completion Date, the provisions of Article X shall apply. The specific time and place for Closing shall be designated by Seller in writing to Purchaser at least seven (7) days prior to the date of Closing.

#### V DEFAULT

##### A. Purchaser's Default:

(1) Purchaser shall be in default under this Contract in the event that:

(a) Purchaser fails or refuses to complete and execute all of the instruments required of Purchaser under this Contract promptly or when requested to do so by Seller or the Mortgagee, if any, or

(b) Purchaser fails or refuses to make timely payment of any payments required under this Contract, or

(c) Purchaser fails to perform the Mortgage Loan Acts, or

(d) Purchaser in any other manner fails or refuses to perform his obligations under this Contract.

(2) In the event of any such default by Purchaser, Seller shall give Purchaser written notice of such default and

allow seven (7) days from the date of such notice for Purchaser to cure such default.

(3) If Purchaser shall fail to cure such default within such seven-day period, Seller shall, and does hereby have, the unrestricted option to: (a) consider Purchaser in default under this Contract, (b) retain all sums paid to it hereunder plus any interest accruing thereon, if any, as agreed upon and liquidated damages, and (c) terminate all rights of Purchaser under this Contract.

(4) Purchaser and Seller recognize the impossibility of measuring Seller's damages if Purchaser defaults. The provision herein contained for agreed upon and liquidated damages is a bona fide provision for such damages and is not a penalty. The Purchaser understands that by reason of the withdrawal of the lot from sale to the general public at a time when other prospective purchasers would be interested in purchasing it, that the Seller will have sustained damages if the Purchaser defaults, which damages will be substantial but not capable of being determined with mathematical precision. Purchaser agrees that if he defaults in this agreement that he will not file any action against Seller seeking the return of any portion of said liquidated and agreed upon damages, nor seeking any reduction in the amount of said liquidated and agreed upon damages.

(5) In the event any litigation is commenced as a result of this Contract and Seller prevails in such litigation, Purchaser shall also be liable for Seller's attorneys' fees and costs resulting therefrom at all trial and appellate levels and whether or not suit be instituted.

B. Seller's Default: If Seller defaults in the performance of this Contract, Purchaser shall give Seller written notice of such default, and Seller shall have seven (7) days from receipt of such written notice within which to begin to take such action as would cure the default within a reasonable period of time. In the event Seller fails to begin to take such action within such seven-day period, then Purchaser, upon having performed all of his obligations hereunder, shall have the right to seek specific performance, or elect to receive a return of his deposit without waiving any remedy to which Purchaser may have been entitled by operation of law.

## VI CONSTRUCTION

A. Purchaser acknowledges that there has been made available to him and that he has been shown the model or the model floor plans of the single family home being purchased by him hereunder. Purchaser further acknowledges that Seller has made available to Purchaser in the sales office, complete plans and specifications for the single family home and the improvements comprising the homeowners association property, as well as, a detailed site plan or designation plan showing the proposed location of Purchaser's single family home. Where this

Contract is executed prior to the Completion Date, Seller agrees to construct the single family home substantially in accordance with the model or model floor plans and specifications, subject however, to job site changes and architectural changes required during construction and shortages in materials or supplies or substantial increases in the cost of same which, in the sole discretion of the Seller, may require a substitution of materials or supplies or the cancellation of a supplier. In the event of substitution, Seller agrees, whenever reasonably possible, to use materials or supplies of equal or comparable quality; but in no event shall any materials or supplies be of less quality than required by applicable building codes or substantially change the product for which Purchaser has contracted. If this Contract is executed prior to the Completion Date, Purchaser understands and agrees that no choice of exterior elevations is available. Seller will choose the exterior elevation of the single family home in order to maintain a harmonious and attractive development.

B. Purchaser agrees to promptly make any requested carpet color selection from the choices which Seller shall make available to Purchaser for inspection during reasonable hours. Any selection by Purchaser shall be final, unless the selected color becomes unavailable to Seller, and Seller requests Purchaser to make an alternative selection. If Purchaser fails to make a selection within ten (10) days after Seller's request to do so, then Seller may, at its option, make that selection on Purchaser's behalf, without further notice, and any such selection shall be binding on Purchaser. Seller makes no representations about any color selected by Purchaser, but will use its best efforts to install colors as close as possible to those selected.

C. Purchaser acknowledges that all furnishings, fixtures, moldings, or other decorative improvements appearing in the model are not included in the single family home herein purchased, and that carpeting, floor vinyls, and paints may be of a different but comparable quality, color, or grade than as shown. Purchaser further acknowledges that quality, colors, and grades of items supplied by Seller may vary from those selected by Purchaser due to shortages, discontinuances of selections, or substantial increases in the costs of same or color run variations, but such substitute items shall be comparable in quality, color, or grade. Unless otherwise indicated in the model, kitchen appliances, plumbing fixtures, carpeting, and floor vinyls, or comparable substitutions for reasons described above, are included in the purchase price.

D. Except for models or sales offices located thereon, Purchaser shall not enter upon the construction site or related facility areas until after Purchaser has closed this Contract and taken possession of his lot. Purchaser shall not in any way interfere with the construction of the development.

E. As shown in the plans and specifications, the single family home contains on its roof applied insulation in the form of fiberglass batts having an R-value of 19 and a thickness of 6.25 inches, and in certain exterior walls applied insulation in the form of fiberglass batts having an R-value of 5 and a thickness of .75 inches.

#### VII PLAN OF DEVELOPMENT

A. It is the present intent of the Seller to develop and complete Bear Island in a single phase. Construction of the development should commence in the Fall of 1987. The Seller shall construct Two hundred twenty-seven (227) single family homes in Bear Island. In the event that the development is later constructed in phases, each phase shall be separately submitted to the Declaration of Covenants and Restrictions for Bear Island without the approval or joinder of any single family home owner in a previously submitted phase.

B. Upon commencement of construction of a single family home on a lot, Seller shall diligently attempt to complete construction of the single family home described herein on or before the expected completion date found in Schedule A. Seller shall not incur any liability or responsibility for damages resulting from any delay in completion of a single family home which were occasioned by circumstances beyond its control such as acts of God, strikes, shortages, and catastrophes which interfere with Seller and the construction of the single family homes. The last stated clause shall also apply to delays of like nature to the manufacturers, millworkers, builders, and suppliers to Seller. Seller shall attempt to complete the single family home not earlier than 90 days before, nor 180 days after, the expected completion date. However, the Seller unconditionally agrees to complete the single family home within a period of two years from the date hereof.

#### VIII SPECIAL WARRANTY DEED; TITLE; CLOSING PROCEDURES

A. Seller covenants and agrees that the conveyance of the lot shall be by a Special Warranty Deed in such form as may be approved by a mortgagee or a title insurance company doing business in the State of Florida, and which Purchaser shall sign with Seller. The proposed form of Special Warranty Deed is an exhibit to the Homeowners Documents.

B. The lot being conveyed hereunder shall be conveyed subject to all of the covenants and provisions set forth in the form of Special Warranty Deed, including the following: (a) terms, conditions, restrictions, covenants and provisions of the Homeowners Documents including any amendments thereto, if any; (b) zoning regulations and ordinances; (c) real estate taxes for the year of closing and subsequent years; (d) all reservations, restrictions and easements of record and easements referred to in

the Homeowners Documents or in the plat; and (e) standard exceptions to title contained in an Attorneys Title Insurance Fund Owners Policy and Commitment (equivalent to an ALTA Owners Policy of Title Insurance, Standard Form B-1970, amended 10/17/86).

C. This Contract is and will be subject and subordinate to the liens of any mortgages now or hereafter placed by Seller on Bear Island prior to Closing, and all amendments, modifications, renewals, consolidations, and extensions thereof, and all voluntary and involuntary future advances made thereunder, provided however, that Seller shall cause any such mortgage to be discharged of record as to the herein described lot contemporaneously with the delivery or recording of the Special Warranty Deed to the lot. The acceptance of the Special Warranty Deed by Purchaser shall be deemed to be acceptance of full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Contract, except obligations, which specifically survive the closing, and obligations under Article XII F herein, if any.

D. (i) At the closing, the Seller will pay for: all state documentary stamps and recording fees on the Special Warranty Deed; the owner's title insurance policy commitment and binder delivered to the Purchaser (Seller shall not provide Purchaser with an abstract of title); and all costs of closing the mortgage loan (if Purchaser elects to obtain mortgage financing in the type and amount and through the Designated Mortgagee described in Article II B.1. and Schedule A) including any mortgagee commitment fee and mortgagee title insurance, but excluding any prepayments of interest, taxes, insurance, (including private mortgage insurance), maintenance, or other prepayments.

(ii) At the closing, the Purchaser will pay for: all costs of closing the mortgage loan (if Purchaser elects to obtain mortgage financing in a type and amount and/or through a mortgagee other than the Designated Mortgagee described in Article II B.1. and Schedule A); all prepayments of interest, taxes, casualty insurance, private mortgage insurance, and a prorated sum to pay a lot owner's share of the Association's casualty and fidelity bond insurance for one year in advance; other prepayments required by the mortgagee; a proration of real estate taxes for the lot; utility service deposits (i.e., water, electric, sewer, refuse, etc.); a proration of the maintenance assessment for the period from the date of closing to the end of the quarter-annual period in which the closing takes place; and a capital contribution sum which is equivalent to 2-months maintenance assessment.

(iii) Maintenance assessments for the Association shall be due and payable quarterly in advance. The initial maintenance assessment for the Association will be One hundred thirty-five Dollars (\$135.00) per month. After the closing, the Purchaser shall pay the maintenance assessment promptly on its due date to the Association. The Developer guarantees that the initial

maintenance assessment amount of One hundred thirty-five Dollars (\$135.00) per month shall not increase before December 31, 1988, or until the date first noticed for the "Majority Election Meeting", as defined in the Articles of Incorporation of the Association, whichever shall first occur.

(iv) The Purchaser shall pay real estate taxes prorated at the time of closing based on the current year's tax with allowance for maximum discount. If the current year's tax has not been set, then real estate taxes may be prorated based on an estimate from the prior year's tax. If the tax proration is estimated, it will be subsequently readjusted upon receipt of the tax bill. This provision shall survive closing.

E. Purchaser also agrees to execute any closing statements or other documents which may be required in connection with the Closing of this Contract or closing of any mortgage financing desired by Purchaser, whether or not such financing is closed simultaneously with the Closing of this Contract. In the event Closing is not completed on the date noticed for Closing due to the fault of Purchaser, Purchaser shall pay Seller an amount equal to interest accruing daily at eighteen percent (18%) per annum (the highest rate permitted by law) on the unpaid balance of the Purchase Price from the date noticed for Closing until the actual Closing occurs and all monies to be paid by Purchaser to Seller pursuant to the terms of this Contract are received by Seller. For purposes of calculating prorations at Closing, the date specified in the notice of Closing shall be the date of Closing.

#### IX ESCROW OF DEPOSIT MONIES

A. In accordance with Florida Statutes Section 501.1375, Seller has established an escrow account with Wood, Cobb, Murphy & Craig, Attorneys-at-Law, P.O. Box 2549, West Palm Beach, Fl 33402 ("Escrow Agent"), which account shall hereinafter be referred to as the "Escrow Agent". Unless waived, all deposit monies received by Seller from Purchaser prior to closing pursuant to this contract shall be deposited into the Escrow account. Such payments shall be held in the Escrow Account, together with payments of other Purchasers of lots in Bear Island. Purchaser may, upon written request to the Escrow Agent, obtain a receipt for his deposit.

B. PURCHASER HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO 10% OF THE PURCHASE PRICE) DEPOSITED INTO THE ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED BY EXECUTION OF THE WAIVER FOUND FOLLOWING THE SIGNATURE PAGE OF THIS CONTRACT. (Waiver form attached)

C. The Seller shall be entitled to the deposit funds and all accrued interest payable at Closing. In the event that Seller wishes to use the deposited funds for building, after notice to Purchaser, Seller may acquire a master surety bond or

other surety bond issued by a Company licensed to do business in the State of Florida, in an amount equal to or greater than the total amount of the escrowed funds. The Purchaser shall be debited at Closing in an amount equal to the premium for the applicable portion of the bond securing his deposit.

D. Purchaser agrees to indemnify and hold Escrow Agent harmless from any claims or damages which may result from Escrow Agent's escrowing or disbursing of Purchaser's payments held in accordance with Florida Statutes Section 501.1375, other than those claims or damages resulting from Escrow Agent's gross negligence or willful malfeasance.

E. In the event that, prior to Closing, the Escrow Agent receives written notice of a dispute between Purchaser and Seller regarding the escrow deposit, Escrow Agent is authorized in its sole discretion to: (1) comply with the terms of Paragraph II A of the Escrow Agreement, a copy of which is part of the homeowners documents; (2) retain the escrow deposit until such dispute is resolved by the agreement of Purchaser and Seller or by a court of competent jurisdiction; or (3) commence an action in the nature of interpleader and seek to deliver the documents, instruments, and escrow deposit to a court of competent jurisdiction.

#### X PROVISIONS RELATING TO CONTRACT SIGNED AFTER COMPLETION DATE

In the event this Contract is executed after the Completion Date, the provisions of Article VI, Paragraph A, shall not be applicable to this Contract, and Purchaser acknowledges that there has been made available to him and that he has been shown the model or model floor plans of the single family home being purchased by him hereunder. Purchaser further acknowledges that Seller has made available to Purchaser complete plans and specifications for the single family home, and that Purchaser has had the right and opportunity to examine the lot and the single family home constructed thereon.

#### XI LIMITATION OF WARRANTIES

A. After completion of the single family home, and upon notice from Seller, Purchaser shall have the right to inspect the lot prior to Closing. Purchaser hereby agrees that from and after Closing, Purchaser shall not make or bring any claim or action against Seller or Seller's agents with respect to the dimensions of the lot or the single family home constructed thereon, or the Association property, the materials employed in the construction of the single family home or the Association property, or the quality of workmanship of the single family home or the Association property, except such claim or actions as may be permitted by Paragraph B of this Article XI.

B. Seller warrants the structure of the single family home will be free of any major defects for a period not in excess of one (1) year after the issuance of the Certificate of Occupancy for each home (said warranty being hereinafter referred to as the "Sole Warranty"). Seller makes no other warranties with respect to the fitness, merchantability, workmanship, construction or physical condition of either the single family home, the Association property, any fixtures or items of personal property sold pursuant to this Contract or any other real or personal property whatsoever conveyed hereby. THE SOLE WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED. EXCEPT FOR THE SOLE WARRANTY, SELLER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS AS TO THE LOT, THE SINGLE FAMILY HOME, THE ASSOCIATION PROPERTY, AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, WHETHER ARISING FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW OR OTHERWISE. The maximum liability of Seller under the Sole Warranty shall be the replacement cost of the defective portion of the single family home, the Association property, fixture, or item of personal property. Seller shall have the sole right to determine whether the defect shall be corrected by repair or replacement. In addition, at Seller's option rather than repairing or replacing the defective item, Seller may pay Purchaser the amount by which the value of the lot has decreased as a result of this defect. In no event shall Seller be liable to Purchaser or the Association or any other person or entity for consequential or exemplary damages or personal injuries arising from any breach of the Sole Warranty.

C. The Sole Warranty shall not apply if the defective portion of the single family home or the association property has resulted from or been caused, in whole or in part, by the misuse of same by any person, firm or entity other than Seller or from an accident or from the failure of Purchaser or the Association to perform routine maintenance thereon. Any altering or modification of original materials or workmanship may void the Sole Warranty.

D. Seller will deliver to Purchaser all manufacturer's warranties for appliances and equipment installed in the single family home. Seller shall not be liable to Purchaser to substitute, replace or repair such appliances or equipment.

E. In the event service or warranty work is requested, the Seller shall attempt to perform such work in a timely manner. If the Purchaser fails to keep service work appointments or fails to permit the Seller to gain access to his home to perform such service work on three (3) consecutive occasions then Seller shall no longer be required to perform such service work.

F. The provisions of this Article XI shall survive the Closing.

## XII MISCELLANEOUS PROVISIONS

A. Purchaser warrants that this sale was not made by Purchaser's personnel and agents. Purchaser agrees to indemnify Seller against any claims of real estate brokers claiming by, through, or under Purchaser's authority for commissions relating to this sale. Seller agrees that Seller's personnel and agents will be compensated by Seller for any commissions relating to this sale.

B. Purchaser shall not record this Contract amongst the Public Records of Palm Beach County, Florida or otherwise. The recording by Purchaser of this Contract shall constitute a default by Purchaser.

C. (Strike inapplicable wording.) Seller warrants that the single family home (has/has not) been occupied. (In the event the inapplicable wording is not stricken, the single family home has not been occupied.)

D. Any notice required or permitted to be given to Purchaser under this Contract may be delivered either personally or by mail addressed to Purchaser at the address of Purchaser set forth on Schedule A. Any notice required or permitted to be given to Seller under this Contract must be mailed by United States certified mail, return receipt requested, postage prepaid, to Seller at the address of Seller set forth on page 1 of this Contract. Any notice to Purchaser or Seller under this Contract except as otherwise expressly provided hereinabove shall be deemed given and delivered when mailed or personally delivered in the manner set forth in this paragraph.

E. All understandings and agreements between the parties are merged into this Contract which fully and completely expresses the parties' agreement. This Contract may not be changed or terminated orally and shall inure to the benefit of and shall be binding upon the parties hereto, their respective heirs, personal representatives, and successors. This Contract and any interest thereunder may not be assigned, sold or transferred by Purchaser in whole or in part without the prior written consent thereto by Seller, which consent is in Seller's sole discretion.

F. Prior to Closing and upon notice from Seller, Purchaser shall inspect the single family home with Seller and complete the inspection form presented to him by Seller specifying any work required to conform the single family home to the model or model floor plans and specifications. Seller shall have a period of sixty (60) days from the date of inspection by Purchaser to complete all work required under the inspection. No requests for adjustments, improvements or repairs shall be honored by Seller unless set forth on the inspection form. The fact that Seller has still to complete the work contemplated under the inspection form shall not delay or postpone the obligation of Purchaser to

close and pay the balance of the Purchase Price. This last provision shall survive Closing.

G. Each lot will be subject to the taxing authority of the Northern Palm Beach County Water Control District. For a period of four years, commencing with real estate tax year 1988, and ending with real estate tax year 1992, Perini Land & Development Company has agreed to refund to each lot owner any part of said Water Control District's annual maintenance tax which is in excess of \$400.00 per acre or portion thereof. In order to receive such a refund the unit owner must present a copy of his paid tax bill to Perini Land & Development Company on or before June 30th of the following real estate tax year. Failure to present a copy of the paid tax bill by said date will make the lot owner ineligible for such a refund. Perini Land & Development Company has no duty to notify the lot owner of this refund privilege.

H. The common area street lighting will be obtained by the Developer from Florida Power & Light Company. The Developer shall secure, by a letter of credit or other acceptable financial assurance, the street lighting for a period of not more than one (1) year after the Transfer Date. The Association shall be responsible and liable for any financial assurances required by Florida Power & Light Company at the expiration of said period.

IN WITNESS WHEREOF, the parties have hereunto affixed their respective hands and seals on the day and year set forth adjacent to their respective names on the Schedule A attached hereto and incorporated herein by reference.

**SCHEDULE A**

1. Purchaser: \_\_\_\_\_ S.S.# \_\_\_\_\_  
 \_\_\_\_\_ S.S.# \_\_\_\_\_  
 Permanent Address: \_\_\_\_\_ Local Address: \_\_\_\_\_  
 City \_\_\_\_\_ City \_\_\_\_\_  
 State \_\_\_\_\_ Zip \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 (Home) \_\_\_\_\_ (Bus) \_\_\_\_\_ (Home) \_\_\_\_\_ (Bus) \_\_\_\_\_

IF NOT A FLORIDA RESIDENT, PLEASE SIGN ATTACHED CERTIFICATION

2. Lot being purchased:  
 Lot \_\_\_\_\_, BEAR ISLAND, according to the Plat thereof,  
 recorded in Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, Public Records of  
 Palm Beach County, Florida.  
 Address of Unit: \_\_\_\_\_  
 Expected Completion Date: \_\_\_\_\_

3. Purchase Price: . . . . . \$ \_\_\_\_\_  
 a. Deposit (Please note Article X of the Contract)  
     1. Initial deposit . . . . . \$ \_\_\_\_\_  
     2. Additional deposit due on \_\_\_\_\_ or the Contract  
        Review Appointment Date (\_\_\_\_). \$ \_\_\_\_\_  
 b. Proceeds of mortgage loan (Please note  
    Article II (B) of the Contract) . . . . \$ \_\_\_\_\_  
 c. Other (Specify \_\_\_\_\_). . . . \$ \_\_\_\_\_  
 c. Balance of purchase price upon closing  
    by cash or cashier's check . . . . . \$ \_\_\_\_\_

4. Manner of payment: (Please initial one. No changes will be  
 allowed after initialing.)  
 ( ) a conventional mortgage not to exceed 80% for an  
     investor or second home buyer, and not to exceed 90% for  
     a primary home with First Federal Savings and Loan  
     Association of the Palm Beaches.  
 ( ) a conventional mortgage with an institutional mortgagee.  
 ( ) CASH at the time of closing.

5. Carpet color: (Please initial one. No changes will be allowed  
 after initialing.)  
 \_\_\_\_\_ Moonbeam; \_\_\_\_\_ Classic Beige; \_\_\_\_\_ Harbor Tan;  
 \_\_\_\_\_ Shrimp Delight; \_\_\_\_\_ Iced Pewter; \_\_\_\_\_ Mint Julep.

6. Deposit received, pursuant to Paragraph 3 hereof; if  
 checks(s), subject to clearance (which is presumed to  
 require 30 days):  
     Paragraph 3.a.1 (\_\_\_\_) Authorized Agent Initials  
     Paragraph 3.a.2 (\_\_\_\_) Authorized Agent Initials

BURG & DIVOSTA CORPORATION

By: \_\_\_\_\_  
     Authorized Agent/Date .

\_\_\_\_\_  
 Purchaser/Date

\_\_\_\_\_  
 Purchaser/Date



CERTIFICATION

STATE OF FLORIDA

COUNTY OF PALM BEACH

The undersigned personally certifies the following:

1. That they or their authorized agent were physically in the State of Florida on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

2. That at that time they or their authorized agent signed a Contract for Purchase and Sale of Lot \_\_\_\_\_ in BEAR ISLAND, West Palm Beach, Florida.

3. That they, or their authorized agent on their behalf, entered into the contract while in the State of Florida, and that they or their agent visited the Development of their own volition and that they or their agent were not solicited either by telephone or by mail to visit the property (except for solicitations, if any, within the State of Florida).

4. That they hereby request the Seller to mail to them such documents and information as may be required by the State of Florida, as may be required in order to close the sale of the Lot and as the Seller may consider necessary.

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Purchaser/Agent

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Purchaser/Agent

Burg &  
DiVosta

WAIVER

THE BUYER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO 10% OF THE PURCHASE PRICE) DEPOSITED IN AN INTEREST-BEARING ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED, IN WRITING, BY THE BUYER.

BUYER, BY EXECUTION HEREOF, HEREBY AGREES AS FOLLOWS:

(Strike the inapplicable paragraph)

A. Buyer hereby waives the right to have up to 10% of the purchase price placed in an interest-bearing escrow account and agrees that all deposits may be used by Seller solely for construction purposes.

OR

B. Buyer shall pay the interest charges incurred by Seller in excess of the interest earned on the escrow funds or, the applicable portion of the premium on the surety bond obtained by Seller, in the event Seller desires to use escrow funds for building purposes, and Buyer does not waive the right to have all of the deposit funds (up to 10% of the purchase price) placed in an interest-bearing escrow account.

Witnesses:

SELLER:

\_\_\_\_\_

\_\_\_\_\_

(As to Seller)

Date: \_\_\_\_\_

Witnesses:

BUYER:

\_\_\_\_\_

\_\_\_\_\_

(As to Buyer)

Date: \_\_\_\_\_

In the event the above right is not waived by Buyer, all funds (up to 10% of the purchase price) shall be placed in an interest-bearing escrow account with the escrow agent, Wood, Cobb, Murphy Craig, Attorneys-at-Law. THE INTEREST EARNED SHALL BE CREDITED TO THE SELLER AT CLOSING (except as otherwise provided by Florida Statute Sec. 501.1375).

If the deposit (up to 10% of the purchase price) is deposited in an interest-bearing escrow account and seller desires to use the funds for building purposes, Seller may acquire a surety bond in the amount of the deposit or borrow money for construction purposes in the amount of the deposit. In such event, Buyer shall pay to Seller the interest on the construction fund borrowed by Seller, in excess of the amount earned by the interest-bearing escrow account or, if Seller obtains a surety bond, Buyer shall pay to Seller an amount equal to the premium for said surety bond securing the deposit.

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT is made and entered into between BURG & DIVOSTA CORPORATION (hereinafter called "Developer" and Wood, Cobb, Murphy & Craig, Attorneys-at-Law (hereinafter called "Escrow Agent").

WHEREAS, the Developer is developing residential single family lots and homes in BEAR ISLAND (hereinafter referred to as the "Project") in West Palm Beach, Palm Beach County, Florida and desires that the Escrow Agent hold certain deposit monies (hereinafter called "Deposit Monies") received by the Developer from purchasers of single family lots at the Project (hereinafter referred to as "Buyers"); and

WHEREAS, the Escrow Agent has agreed to act as escrow agent for the Deposit Monies paid by Buyers pursuant to Contracts for Purchase and Sale entered into by the Developer and Buyers (hereinafter referred to as "Contracts"), in accordance with the provisions of Florida Statutes, Section 501.1375, and on the terms and conditions now about to be set forth.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and lawful consideration, the parties agree as follows:

### I. ESCROW ACCOUNT

A. The Escrow Agent hereby accepts its designation to act and serve as the escrow agent for the Project, subject to all of the rights and privileges pertaining to that office and subject to the obligations incident thereto.

B. Unless waived by Buyer, the Developer shall deliver certain Deposit Monies received by it to the Escrow Agent, pursuant to Contracts. Simultaneously with the delivery of the Deposit Monies, the Developer shall deliver to the Escrow Agent a copy of the Contract, pursuant to which the Developer received the Deposit Monies; provided, however, in the event any additional Deposit Monies shall be paid, pursuant to a Contract previously delivered to the Escrow Agent, the Developer shall not be required to deliver another copy of such Contract. The Escrow Agent shall deposit the Deposit Monies pursuant to Florida Statutes, Section 501.1375, without any interest thereon being payable to the Buyer. A copy of the form of Contract in use at the Project is attached hereto as Exhibit "A".

C. The Escrow Agent shall maintain appropriate schedules of the Deposit Monies and, upon either the Buyer's or Developer's request, furnish a receipt to either person for the Deposit Monies held.

## II. DISBURSEMENT OF DEPOSIT MONIES

The Escrow Agent agrees to hold all Deposit Monies in escrow subject to and in accordance with the following terms and conditions:

A. In the event the Escrow Agent receives a notice sent to it by a Buyer or the Developer requesting that the Deposit Monies be paid over to the Buyer or the Developer in accordance with Florida Statutes, Section 501.1375, and the Contract for Purchase and Sale, then the Deposit Monies shall be paid over by the Escrow Agent as requested free of all costs of escrow, without interest, if any, provided that the Escrow Agent receives a properly executed Release from the Buyer and Developer on forms acceptable to the Escrow Agent.

B. In the event that, prior to a Closing, the Escrow Agent receives written notice from the Buyer or Developer that there is a dispute between the Buyer and Developer, the Escrow Agent is hereby authorized in its sole discretion to (1) comply with the terms of Paragraph II A of this Agreement; (2) ignore any requests which the Escrow Agent shall deem not to be in accord with the terms of this Agreement; or (3) commence an action in the nature of interpleader and seek to deliver the documents, instruments and Deposit Monies to a court of competent jurisdiction.

C. The Escrow Agent shall disburse a Buyer's Deposit Monies to the Developer upon its receipt of the Developers written notice that such Buyer's Closing has been completed, and upon receipt of copies of executed Buyer's and Seller's closing statements.

D. Notwithstanding any provision to the contrary contained in this Agreement, the Escrow Agent shall make no disbursement out of escrow until the Buyer's check has cleared.

E. The Developer and the Buyer acknowledge and represent that this arrangement is for their sole benefit. Except as provided for in Paragraph II B, the Escrow Agent shall have no liability whatsoever to any party provided it performs its duties outlined in this Agreement in good faith. It shall not be required to pass upon any adverse claims or disputes between the parties or others, nor shall it be liable for refusing to comply with any request or demand which is contrary (in the sole opinion of the Escrow Agent) to any of the Escrow Agent's options under this Agreement. The Developer and the Buyer hereby jointly and severally agree to indemnify, defend and hold the Escrow Agent harmless from any and all claims, demands, losses, damages, actions or lawsuits which the Escrow Agent may sustain or incur in reference to its actions or inactions hereunder (except for actions or inactions contrary to Paragraph II B hereof), as well as for all costs and attorney's fees, including appeals.

### III. LIABILITY OF ESCROW AGENT

The Escrow Agent shall not be responsible or liable for the sufficiency or correctness as to form, manner of execution or validity of any instrument deposited in this escrow, nor as to the sufficiency of the title to the property to be conveyed.

### IV. COMPENSATION

The Escrow Agent agrees that it has received good and valuable consideration from the Developer as compensation for the services to be provided hereunder.

### V. CANCELLATION

A. This Agreement shall remain in effect unless and until it is cancelled in either of the following manners:

(1) By written notice given by the Developer of cancellation of designation of the Escrow Agent to act and serve in such capacity, in which event, cancellation shall take effect thirty (30) days after mailing such notice to the Escrow Agent or such shorter time as the Developer shall specify in such notice; or

(2) The Escrow Agent may resign at any time upon giving written notice to the Developer of its desire to so resign; provided, however, that resignation of the Escrow Agent shall take effect forty-five (45) days after the giving of notice of resignation, provided the Developer shall have an opportunity to select and designate another party to act and serve as escrow agent for the Deposit Monies.

B. Upon cancellation, the Escrow Agent shall forthwith deliver all Deposit Monies and Contracts to the Successor Escrow Agent prior to the expiration of the time period stated in the notice.

In the event the Developer fails to designate a Successor Escrow Agent within the period described hereinabove; the Escrow Agent shall have the right to deposit all Deposit Monies and Contracts held hereunder into the registry of an appropriate court and request judicial determination of the rights between the parties.

### VI. NOTICES

A notice pursuant to Article II shall be in writing and may be delivered by hand or the U. S. Mail. All other notices, certificates, requests, demands, materials and other communications hereunder shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, postage prepaid.

All notices shall be addressed as follows:

(1) If to Developer, to:

Burg & DiVosta Corporation  
10358 Riverside Drive  
Palm Beach Gardens, Florida 33410

Attention: Clifford F. Burg

(2) If to the Escrow Agent, to:

Wood, Cobb, Murphy & Craig, Attorneys-at-Law  
P.O. Box 2549  
West Palm Beach, Florida 33402

Attention: Marshall B. Wood, Jr.

#### VII. BINDING AGREEMENT

This Agreement shall be binding upon the Developer, the Buyer, the Escrow Agent and their respective heirs, personal representatives and successors. The Escrow Agent shall not be bound by any agreement between the Buyer and the Developer contrary to the provisions hereof, whether it has knowledge of such agreement or not. Any dispute in reference hereto shall be decided under the laws of the State of Florida. The Buyer, the Escrow Agent and Developer agree to execute any and all documents reasonably required to give full force and effect to this Agreement.

IN WITNESS WHEREOF, the Developer and the Escrow Agent have caused these presents to be executed in their respective corporate names by their undersigned authorized officers and have caused their respective corporate seals to be hereto affixed the 24<sup>th</sup> day of July, 1987.

BURG & DIVOSTA CORPORATION

By: Clifford F. Burg  
Clifford F. Burg  
President

WOOD, COBB, MURPHY & CRAIG

By: Marshall B. Wood, Jr.  
Marshall B. Wood, Jr.

**RESOLUTION OF THE BOARD OF DIRECTORS  
TO ENACT AMENDMENTS TO BY-LAWS**

WHEREAS, Article III, Paragraph 3 of the Declaration of Covenants and Restrictions of Bear Island authorizes the Board to enact a provision to the By-Laws for self nomination of candidates for the Board of Directors and procedures for electing Board members by mail-in ballots.

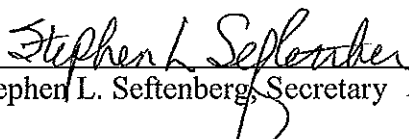
NOW, THEREFORE, It is resolved that pursuant to the authority granted to the Board, the Board enacts the following procedures for electing Board members by mail-in ballots:

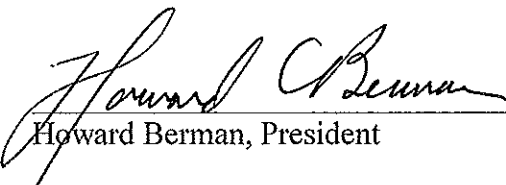
Paragraph 4.14 of the By-Laws of Bear Island Homeowners Association, Inc. are amended to read as follows: (deleted language is stricken and new language is italicized):

"4.14 The Board shall contact all members in writing to solicit the self nomination of director candidates in time for the candidates to be included on a mail-in ballot form to be included with the notice of the annual election meeting of the membership. Completed mail-in ballots must (i) be signed by the owner or voting member, (ii) list the Lot addresses, (iii) print the owners' last name, and (iv) be mailed for receipt by or delivered to the Association prior to the scheduled election meeting. Once received by the Association, the mail-in ballots cast cannot be rescinded or changed. Any Member not voting by mail-in ballot may cast a ballot at the meeting. The mail-in ballot envelopes shall not be opened until all votes are cast at the election meeting. The Board may ~~determine to~~ require a double envelope, secret ballot procedure, if the Board, in its discretion, determines that such a procedure should be utilized. Any owner / member of a multi-owner lot shall be entitled to cast the vote for that lot unless the Association receives an objection in writing from one of the other owners prior to the vote, in which case the vote shall not be considered. If the owner is a corporation, the vote may be cast executed by any officer of the corporation.

-END OF RESOLUTION-

Approved by the Board on December 1, 2008

  
\_\_\_\_\_  
Stephen L. Seftenberg, Secretary

  
\_\_\_\_\_  
Howard Berman, President

**RESOLUTION OF THE BOARD OF DIRECTORS  
TO ENACT AMENDMENTS TO BY-LAWS**

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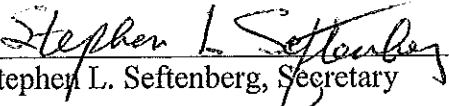
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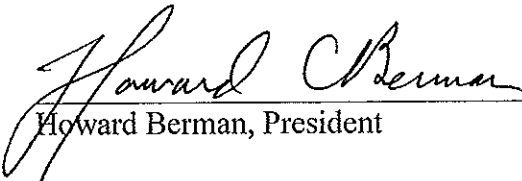
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-END OF RESOLUTION-

Approved by the Board on December 1, 2008

  
Stephen L. Seftenberg, Secretary

  
Howard Berman, President

## RULES AND REGULATIONS

### FOR BEAR ISLAND

The definitions contained in the Declaration of Covenants and Restrictions for Bear Island are incorporated herein as part of these Rules and Regulations.

1. The owners and lessees of each lot in the general plan of development shall abide by each and every term and provision of the Declaration of Covenants and Restrictions, and each and every term and provision of the Articles of Incorporation, and By-Laws of the Association.
2. No bicycles, tricycles, scooters, baby carriages or other similar vehicles or toys shall be allowed to remain in the common areas. The sidewalks, walkways, streets and parking areas shall not be obstructed or used for any other purpose other than for ingress to and egress from the lots and common areas.
3. Any damage to the common elements, property, or equipment of the Association caused by any lot owner, his family member, guest, invitee or lessee shall be repaired or replaced at the expense of such lot owner.
4. A lot owner will not park or position his vehicle so as to prevent access to another lot. The lot owners, their families, guests, invitees, licensees, and lessees will obey the posted parking and traffic regulations installed by the Association for the safety, convenience, and welfare of all lot owners.
5. No lot owner shall do or permit any assembling or disassembling of motor vehicles except within his garage. Each lot owner shall be required to clean his driveway of any oil or other fluid discharged by his motor vehicle.
6. No transmitting or receiving aerial or antenna shall be attached to or hung from any part of the common areas.
7. No clothesline or other similar device shall be allowed on any portion of the common areas.
8. All garbage and refuse from the lots shall be deposited with care in each lot owner's private garbage containers. No garbage or refuse shall be deposited in any common area for any reason, except on the correct days of the week for pickup and removal. No littering shall be done or permitted on the Association property.

9. No commercial vehicle, recreational vehicle, camper, trailer, boat, van, or truck of any kind shall park or be parked at any time on any portion of the common areas, except for commercial vehicles, vans, or trucks delivering goods or furnishing services. Said commercial vehicles, vans, or trucks shall not park or be permitted to park overnight on any portion of the common areas or on any lot (except within the confines of a garage). The Association shall have the right to authorize the towing away of any such vehicles in violation of this rule with costs and fees, including attorneys' fees, if any, to be borne by the vehicle owner or violator.

10. No garage doors shall be permitted to remain open except for temporary purposes, and the Board may adopt further rules for the regulation of the opening of garage doors.

11. Complaints regarding the management of the Association property, or regarding the actions of other lot owners, their families, guests, or lessees shall be made in writing to the Association and shall be signed by the complaining lot owner.

12. Any consent or approval given under these Rules and Regulations by the Association may be revocable at any time by the Board.

13. These Rules and Regulations may be modified, added to, or repealed in accordance with the By-Laws of the Association.

By Resolution of the Board of Directors  
of Bear Island Homeowners Association,  
Inc.